

Senate Bill 222

By: Senators Unterman of the 45th, Hill of the 4th, Williams of the 19th, Grant of the 25th and Goggans of the 7th

**AS PASSED SENATE**

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend various titles of the Official Code of Georgia Annotated, so as to reorganize and  
2 reestablish various state health and human services agencies; to establish the Department of  
3 Health, the Department of Human Services, and the Department of Behavioral Health; to  
4 reassign various functions of the Department of Community Health and the Department of  
5 Human Resources to the new agencies; to provide for transition to the new agencies; to  
6 provide for a board for each agency; to reconstitute the Board of Community Health; to  
7 abolish the Board of Human Resources; to establish the position of State Health Officer; to  
8 establish the Behavioral Health Coordinating Council; to amend various titles for purposes  
9 of conformity; to provide for related matters; to provide an effective date; to repeal  
10 conflicting laws; and for other purposes.

11 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

12 **PART I**  
13 **Department of Health.**

14 **SECTION 1-1.**

15 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising  
16 and redesignating Chapter 5A, relating to the Department of Community Health, and revising  
17 Chapter 2, relating to the Department of Human Resources, as follows:

18 **"CHAPTER 2**

19 ~~31-5A-1.~~ 31-2-1.

20 Given the growing concern and complexities of health issues in this state, it is the intent  
21 of the General Assembly to create a Department of ~~Community~~ Health dedicated to health  
22 issues. ~~Recognizing that the manner in which health care is currently administered at the~~  
23 ~~state level is fragmented and often unresponsive to health care issues, the new department~~

~~is created for the following purposes~~ The Department of Health shall safeguard and promote the health of the people of this state and is empowered to employ all legal means appropriate to that end. Illustrating, without limiting, the foregoing grant of authority, the department is empowered to:

(1) ~~To serve~~ Serve as the lead planning agency for all health issues in the state to remedy the current situation wherein the responsibility for health care policy, purchasing, planning, and regulation is spread among many different agencies;

(2) ~~To permit~~ Permit the state to maximize its purchasing power and to administer its operations in a manner so as to receive the maximum amount of federal financial participation available in expenditures of the department ~~inasmuch as the state now has none of its health care purchasing coordinated;~~

(3) ~~To minimize~~ Minimize duplication and maximize administrative efficiency in the state's health care systems by removing overlapping functions and streamlining uncoordinated programs;

(4) ~~To allow~~ Allow the state to develop a better health care infrastructure that is more responsive to the consumers it serves while improving access to and coverage for health care; ~~and~~

(5) ~~To focus~~ Focus more attention and departmental procedures on the issue of wellness, including diet, exercise, and personal responsibility;

(6) Provide epidemiological investigations and laboratory facilities and services in the detection and control of disease, disorders, and disabilities and to provide research, conduct investigations, and disseminate information concerning reduction in the incidence and proper control of disease, disorders, and disabilities;

(7) Forestall and correct physical, chemical, and biological conditions that, if left to run their course, could be injurious to health;

(8) Regulate and require the use of sanitary facilities at construction sites and places of public assembly and to regulate persons, firms, and corporations engaged in the rental and service of portable chemical toilets;

(9) Isolate and treat persons afflicted with a communicable disease who are either unable or unwilling to observe the department's rules and regulations for the suppression of such disease and to establish, to that end, complete or modified quarantine, surveillance, or isolation of persons and animals exposed to a disease communicable to man;

(10) Procure and distribute drugs and biologicals and purchase services from clinics, laboratories, hospitals, and other health facilities and, when authorized by law, to acquire and operate such facilities;

(11) Cooperate with agencies and departments of the federal government and of the state by supplying consultant services in medical and hospital programs and in the health aspects of civil defense, emergency preparedness, and emergency response;

(12) Prevent, detect, and relieve physical defects and deformities;

(13) Promote the prevention, early detection, and control of problems affecting the dental and oral health of the citizens of Georgia;

(14) Contract with county boards of health to assist in the performance of services incumbent upon them under Chapter 3 of this title and, in the event of grave emergencies of more than local peril, to employ whatever means may be at its disposal to overcome such emergencies;

(15) Contract and execute releases for assistance in the performance of its functions and the exercise of its powers and to supply services which are within its purview to perform;

(16) Enter into or upon public or private property at reasonable times for the purpose of inspecting same to determine the presence of disease and conditions deleterious to health or to determine compliance with health laws and rules, regulations, and standards thereunder;

(17) Promulgate and enforce rules and regulations for the licensing of medical facilities wherein abortion procedures under subsections (b) and (c) of Code Section 16-12-141 are to be performed; and, further, to disseminate and distribute educational information and medical supplies and treatment in order to prevent unwanted pregnancy; and

(18) Establish, by rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' a schedule of fees for laboratory services provided, schedules to be determined in a manner so as to help defray the costs incurred by the department, but in no event to exceed such costs, both direct and indirect, in providing such laboratory services, provided no person shall be denied services on the basis of his or her inability to pay. All fees paid thereunder shall be paid into the general funds of the State of Georgia. The individual who requests the services authorized in this paragraph, or the individual for whom the laboratory services authorized in this paragraph are performed, shall be responsible for payment of the service fees. As used in this paragraph, the term 'individual' means a natural person or his or her responsible health benefit policy or Title XVIII, XIX, or XXI of the federal Social Security Act of 1935.

~~31-5A-2.~~ 31-2-2.

~~Notwithstanding the provisions of Code Section 31-1-1, as As used in this chapter, the~~  
term:

(1) 'Board' means the State Board of ~~Community~~ Health established under Code Section ~~31-5A-3~~ 31-2-3.

(2) 'Commissioner' means the commissioner of ~~community~~ health established under Code Section ~~31-5A-6~~ 31-2-6.

(3) 'Department' means the Department of ~~Community~~ Health established under Code Section ~~31-5A-4~~ 31-2-4.

~~(4) 'Department divisions' means the Division of Health Planning, Division of Medical Assistance, Division of Public Employee Health Benefits, and any other division of the department established by the board.~~

~~(5) 'Division of Health Planning' means the Division of Health Planning established as such pursuant to paragraph (1) of subsection (b) of Code Section 31-5A-4.~~

~~(6) 'Division of Medical Assistance' means the Division of Medical Assistance established as such pursuant to paragraph (2) of subsection (b) of Code Section 31-5A-4.~~

~~(7) 'Division of Public Employee Health Benefits' means the Division of Public Employee Health Benefits established as such pursuant to paragraph (3) of subsection (b) of Code Section 31-5A-4.~~

~~(8)~~(4) 'Predecessor agency or unit' means the State Personnel Board, solely with respect to actions regarding the state health benefit plan, the Health Planning Agency, and the ~~Department of Medical Assistance~~ Department of Community Health, the Division of Public Health of the Department of Human Resources, and the Office of Regulatory Services of the Department of Human Resources.

~~(9)~~(5) 'State health benefit plan' means the health insurance plan authorized under Article 1 of Chapter 18 of Title 45 and Part 6 of Article 17 of Chapter 2 of Title 20.

~~(10)~~(6) 'State Personnel Board' means the board established under Article IV, Section III of the Constitution.

~~31-5A-3.~~ 31-2-3.

(a) There is created the State Board of Community Health, as of July 1, 2009, which shall establish the general policy to be followed by the Department of ~~Community~~ Health. The powers, functions, and duties of the Board of ~~Medical Assistance~~ Community Health as they existed on June 30, ~~1999~~ 2009, with regard to the ~~Department of Medical Assistance, and the powers, functions, and duties of the State Personnel Board as they existed on June 30, 1999, with regard to the state health benefit plan,~~ are transferred to the State Board of Community Health effective July 1, 1999 2009, and the Board of Community Health as it existed on June 30, 2009 shall be reconstituted as the Board of Health effective July 1, 2009. The board shall consist of nine members appointed by the Governor and confirmed by the Senate.

~~(b) The Governor shall designate the initial terms of the members of the board as follows: three members shall be appointed for one year; three members shall be appointed for two~~

years, and three members shall be appointed for three years. Board members in office on June 30, 2009, shall serve out the remainder of their respective terms and successors to these board seats shall be appointed in accordance with this Code section. Thereafter, all succeeding appointments shall be for three-year terms from the expiration of the previous term.

(c) Vacancies in office shall be filled by appointment by the Governor in the same manner as the appointment to the position on the board which becomes vacant, and the appointment shall be submitted to the Senate for confirmation at the next session of the General Assembly. An appointment to fill a vacancy other than by expiration of a term of office shall be for the balance of the unexpired term.

(d) Members of the board may be removed from office under the same conditions for removal from office of members of professional licensing boards provided in Code Section 43-1-17.

(e) There shall be a chairperson of the board elected by and from the membership of the board who shall be the presiding officer of the board.

(f) The members of the board shall receive a per diem allowance and expenses as shall be set and approved by the Office of Planning and Budget in conformance with rates and allowances set for members of other state boards.

~~31-5A-4.~~ 31-2-4.

(a)(1) The Department of ~~Community~~ Health is created and established to perform the functions and assume the duties and powers exercised on June 30, ~~1999~~ 2009, by the ~~State Personnel Board solely with respect to the state health benefit plan, the Health Planning Agency, and the Department of Medical Assistance~~ Department of Community Health, the Division of Public Health of the Department of Human Resources, and the Office of Regulatory Services of the Department of Human Resources, unless specifically transferred to the Department of Human Services, and such department, division, and office shall be reconstituted as the Department of Health effective July 1, 2009. The department shall ~~also assume~~ retain powers and responsibility with respect to the expenditure of any funds appropriated to the department including, without being limited to, funds received by the state pursuant to the settlement of the lawsuit filed by the state against certain tobacco companies, *State of Georgia, et al. v. Philip Morris, Inc., et al.*, Civil Action #E-61692, V19/246 (Fulton County Superior Court, December 9, 1998).

~~(b) The divisions of the department shall be as follows:~~

~~(1) The Health Planning Agency, as it existed on June 30, 1999, is continued in existence on and after July 1, 1999, but shall thereafter be the Division of Health Planning within the department;~~

(2) ~~The Department of Medical Assistance, as it existed on June 30, 1999, is continued in existence on and after July 1, 1999, but shall thereafter be the Division of Medical Assistance within the department;~~

(3) ~~The Health Benefit Services Division of the State Merit System of Personnel Administration, as it existed on June 30, 1999, is continued in existence on and after July 1, 1999, but shall thereafter be the Division of Public Employee Health Benefits within the department; and~~

(4) ~~Such other divisions as the board may establish within the department.~~

(c)(2) ~~The executive director of the Health Planning Agency~~ Division of Public Health in office on June 30, ~~1999~~ 2009, ~~the commissioner of medical assistance in office on June 30, 1999;~~ and the director of the ~~Health Benefit Services Division of the State Merit System of Personnel Administration~~ Office of Regulatory Services in office on June 30, ~~1999~~ 2009, shall become directors of the respective ~~divisions~~ division or office which those predecessor agencies or ~~divisions~~ units have become on and after July 1, ~~1999~~ 2009, and until such time as the commissioner appoints other directors of such divisions or units.

(d)(b)(1) There is created in the department the Office of Women's Health. Attached to the office shall be an 11 member advisory council. The members of the advisory council shall be appointed by the Governor and shall be representative of major public and private agencies and organizations in the state and shall be experienced in or have demonstrated particular interest in women's health issues. Each member shall be appointed for two years and until his or her successor is appointed. The members shall be eligible to succeed themselves. The council shall elect its chairperson from among the councilmembers for a term of two years. The Governor may name an honorary chairperson of the council.

(2) The Office of Women's Health shall serve in an advisory capacity to the Governor, the General Assembly, the board, the department, and all other state agencies in matters relating to women's health. In particular, the office shall:

(A) Raise awareness of women's nonreproductive health issues;

(B) Inform and engage in prevention and education activities relating to women's nonreproductive health issues;

(C) Serve as a clearing-house for women's health information for purposes of planning and coordination;

(D) Issue reports of the office's activities and findings; and

(E) Develop and distribute a state comprehensive plan to address women's health issues.

(3) ~~The Office of Women's Health shall have a full-time executive director appointed by the commissioner and shall be provided with staff personnel, office and meeting facilities;~~

and other necessary items by the department. The council shall meet upon the call of its chairperson, the board, or the commissioner.

~~(e)~~(c) The ~~board of regents~~ Board of Regents of the University System of Georgia is authorized to contract with the department for health benefits for members, employees, and retirees of the board of regents and the dependents of such members, employees, and retirees and for the administration of such health benefits. The department is also authorized to contract with the board of regents for such purposes.

~~(f)~~(d) In addition to its other powers, duties, and functions, the department:

(1) Shall be the lead agency in coordinating and purchasing health care benefit plans for state and public employees, dependents, and retirees and may also coordinate with the board of regents for the purchase and administration of such health care benefit plans for its members, employees, dependents, and retirees;

(2) Is authorized to plan and coordinate medical education and physician workforce issues;

~~(3) Is authorized to convene at least quarterly a state agency coordinating committee comprised of the commissioners, directors, chairpersons, or their designees, of the following agencies involved in health related activities: the Department of Human Resources, including the Division of Public Health, the Division of Mental Health, Developmental Disabilities, and Addictive Diseases, and the Division of Aging Services thereof, the Department of Juvenile Justice, the Department of Corrections, the Insurance Department, the State Merit System of Personnel Administration, the State Board of Workers' Compensation, and the Governor's Office of Planning and Budget. The board of regents may also designate a person to serve on the coordinating committee. The committee will convene for the purposes of planning and coordinating health issues that have interagency considerations. The commissioner of the department will serve as the chairperson of the state agency coordinating committee and will report to the Governor the activities, findings, and recommendations of the committee;~~

~~(4)~~ Shall investigate the lack of availability of health insurance coverage and the issues associated with the uninsured population of this state. In particular, the department is authorized to investigate the feasibility of creating and administering insurance programs for small businesses and political subdivisions of the state and to propose cost-effective solutions to reducing the numbers of uninsured in this state;

~~(5) Shall study and recommend any additional functions needed to carry out the purposes of the department, including the creation of a consumer medical advocate. Such recommendations shall be made to the Governor and General Assembly by December 31, 1999;~~

(6)(4) Is authorized to appoint a health care work force policy advisory committee to oversee and coordinate work force planning activities;

(7)(5) Is authorized to solicit and accept donations, contributions, and gifts and receive, hold, and use grants, devises, and bequests of real, personal, and mixed property on behalf of the state to enable the department to carry out its functions and purposes; and

(8)(6) Is authorized to award grants, as funds are available, to hospital authorities and hospitals for public health purposes, pursuant to Code Sections 31-7-94 and 31-7-94.1;

(7) Shall make provision for meeting the cost of hospital care of persons eligible for public assistance to the extent that federal matching funds are available for such expenditures for hospital care. To accomplish this purpose, the department is authorized to pay from funds appropriated for such purposes of the amount required under this paragraph into a trust fund account which shall be available for disbursement for the cost of hospital care of public assistance recipients. The commissioner, subject to the approval of the Office of Planning and Budget, on the basis of the funds appropriated in any year, shall estimate the scope of hospital care available to public assistance recipients and the approximate per capita cost of such care. Monthly payments into the trust fund for hospital care shall be made on behalf of each public assistance recipient and such payments shall be deemed encumbered for assistance payable. Ledger accounts reflecting payments into and out of the hospital care fund shall be maintained for each of the categories of public assistance established under Code Section 49-4-3. The balance of state funds in such trust fund for the payment of hospital costs in an amount not to exceed the amount of federal funds held in the trust fund by the department available for expenditure under this paragraph shall be deemed encumbered and held in trust for the payment of the costs of hospital care and shall be rebudgeted for this purpose on each quarterly budget required under the laws governing the expenditure of state funds. The state auditor shall audit the funds in the trust fund established under this paragraph in the same manner that any other funds disbursed by the department are audited.

~~31-5A-5.~~ 31-2-5.

(a) ~~To assist in the transition of functions, until July 1, 2000, the State Merit System of Personnel Administration shall perform payroll, accounting, and purchasing services and other general support services on behalf of the Division of Public Employee Health Benefits.~~

(b) All persons employed in a predecessor agency or unit on June 30, ~~1999~~ 2009, shall, on July 1, ~~1999~~ 2009, become employees of the department ~~within the division which such predecessor agency has become.~~ Such employees shall be subject to the employment practices and policies of the department on and after July 1, ~~1999~~ 2009, but the

compensation and benefits of such transferred employees shall not be reduced as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and thereby under the State Merit System of Personnel Administration and who are transferred to the department shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, ~~1999~~ 2009, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, ~~1999~~ 2009. Accrued annual and sick leave possessed by said employees on June 30, ~~1999~~ 2009, shall be retained by said employees as employees of the department.

~~(c)~~(b)(1) The department shall conform to federal standards for a merit system of personnel administration in any respects necessary for receiving federal grants, and the board is authorized and empowered to effect such changes as may, from time to time, be necessary in order to comply with such standards.

(2) The department is authorized to employ, on a full-time or part-time basis, such medical, supervisory, institutional, and other professional personnel and such clerical and other employees as may be necessary to discharge the duties of the department under this chapter. The department is also authorized to contract for such professional services as may be necessary.

(3) Classified employees of the department under this chapter shall in all instances be employed and dismissed in accordance with rules of the State Personnel Board.

(4) All personnel of the department are authorized to be members of the Employees' Retirement System of Georgia as provided in Chapter 2 of Title 47. All rights, credits, and funds in that retirement system which are possessed by state personnel transferred by provisions of this chapter to the department, or otherwise had by persons at the time of employment with the department, are continued and preserved, it being the intention of the General Assembly that such persons shall not lose any rights, credits, or funds to which they may be entitled prior to becoming employees of the department.

~~(d)~~(c) The department shall succeed to all rules, regulations, policies, procedures, and administrative orders of the predecessor ~~agencies~~ agency or unit which were in effect on June 30, ~~1999~~ 2009, or scheduled to go into effect on or after July 1, ~~1999~~ 2009, and which relate to the functions transferred to the department by this chapter. Such rules, regulations, policies, procedures, and administrative orders shall remain in effect until amended, repealed, superseded, or nullified by proper authority or as otherwise provided by law. Rules of the department shall be adopted, promulgated, and implemented as provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that

only ~~the Division of Health Planning~~ rules promulgated pursuant to Chapter 6 of this title shall be subject to the provisions of Code Section 31-6-21.1.

~~(c)~~(d) The rights, privileges, entitlements, and duties of parties to contracts, leases, agreements, and other transactions entered into before July 1, ~~1999~~ 2009, by any predecessor agency or unit and which pertain to the functions transferred to the department by this chapter shall continue to exist; and none of these rights, privileges, entitlements, and duties are impaired or diminished by reason of the transfer of the functions to the department. In all such instances, the Department of ~~Community~~ Health shall be substituted for the predecessor agency or unit, and the Department of ~~Community~~ Health shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.

(e) On July 1, 2009, the department shall receive custody of the state owned real property in the custody of the predecessor agency or unit on June 30, 2009, and which pertains to the functions transferred to the department by this chapter.

~~(f)(1) The Governor is authorized to transfer to the Division of Public Employee Health Benefits of the department, by executive order, employees of the State Merit System of Personnel Administration who were performing functions for the Health Benefit Services Division of that system on June 30, 1999, whether or not they were also performing functions other than functions for that division. Employees so transferred shall become employees of the Division of Public Employee Health Benefits of the department.~~

~~(2) The commissioner is authorized to transfer department employees from one division to another division within the department.~~

~~31-5A-6.~~ 31-2-6.

(a) There is created the position of commissioner of ~~community~~ health. The commissioner shall be the chief administrative officer of the department and shall be subject to appointment and removal by the Governor. Subject to the general policy established by the board, the commissioner shall supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department.

(b) There shall be created in the department such divisions as may be found necessary for its effective operation. The commissioner shall have the power to allocate and reallocate functions among the divisions within the department.

~~31-2-1.~~

~~The Department of Human Resources is created and established to safeguard and promote the health of the people of this state and is empowered to employ all legal means~~

appropriate to that end. Illustrating, without limiting, the foregoing grant of authority, the department is empowered to:

(1) Provide epidemiological investigations and laboratory facilities and services in the detection and control of disease, disorders, and disabilities and to provide research, conduct investigations, and disseminate information concerning reduction in the incidence and proper control of disease, disorders, and disabilities;

(2) Forestall and correct physical, chemical, and biological conditions that, if left to run their course, could be injurious to health;

(3) Regulate and require the use of sanitary facilities at construction sites and places of public assembly and to regulate persons, firms, and corporations engaged in the rental and service of portable chemical toilets;

(4) Isolate and treat persons afflicted with a communicable disease who are either unable or unwilling to observe the department's rules and regulations for the suppression of such disease and to establish, to that end, complete or modified quarantine, surveillance, or isolation of persons and animals exposed to a disease communicable to man;

(5) Manufacture drugs and biologicals which are not readily available on the market and not manufactured for commercial purposes, when expressly authorized and shown on the minutes of the department, to procure and distribute drugs and biologicals and purchase services from clinics, laboratories, hospitals, and other health facilities and, when authorized by law, to acquire and operate such facilities;

(6) Cooperate with agencies and departments of the federal government and of the state by supplying consultant services in medical and hospital programs and in the health aspects of civil defense;

(7) Detect and relieve physical defects and deformities and provide treatment for mental and emotional disorders and infirmities;

(8) Promote the prevention, early detection, and control of problems affecting the dental health of the citizens of Georgia;

(9) Contract with county boards of health to assist in the performance of services incumbent upon them under Chapter 3 of this title and, in the event of grave emergencies of more than local peril, to employ whatever means may be at its disposal to overcome such emergencies;

(10) Contract and execute releases for assistance in the performance of its functions and the exercise of its powers and to supply services which are within its purview to perform;

(11) Enter into or upon public or private property at reasonable times for the purpose of inspecting same to determine the presence of disease and conditions deleterious to health or to determine compliance with health laws and rules, regulations, and standards thereunder;

~~(12) Promulgate and enforce rules and regulations for the licensing of medical facilities wherein abortion procedures under subsections (b) and (c) of Code Section 16-12-141 are to be performed; and, further, to disseminate and distribute educational information and medical supplies and treatment in order to prevent unwanted pregnancy; and~~  
~~(13) Establish, by rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' a schedule of fees for laboratory services provided; schedules to be determined in a manner so as to help defray the costs incurred by the department, but in no event to exceed such costs, both direct and indirect, in providing such laboratory services, provided no person shall be denied services on the basis of his inability to pay. All fees paid thereunder shall be paid into the general funds of the State of Georgia. The individual who requests services authorized in this Code section shall pay the fee. As used in this Code section, the term 'individual' means a natural person.~~

~~31-2-2.~~ 31-2-7.

The department is designated and empowered as the agency of this state to apply for, receive, and administer grants and donations for health purposes from the federal government and from any of its departments, agencies, and instrumentalities; from appropriations of the state; and from any other sources in conformity with law, including but not limited to Code Section 49-4-152. The department shall have the authority to prescribe the purposes for which such funds may be used in order to:

- (1) Provide, extend, and improve maternal and child health services;
- (2) Locate children already ~~crippled~~ disabled or suffering from conditions leading to ~~crippling~~ a disability and provide for such children medical, surgical, corrective, and other services and to provide for facilities for diagnosis, hospitalization, and aftercare;
- (3) Advance the prevention and control of cancer and of venereal, tubercular, and other diseases;
- (4) Forestall and correct conditions that, if left to run their course, could be injurious to health;
- (5) Conduct programs which lie within the scope and the power of the department relating to industrial hygiene, control of ionizing radiation, occupational health, water quality, water pollution control, and planning and development of water resources;
- (6) Administer grants-in-aid to assist in the construction of publicly owned and operated general and special medical facilities;
- (7) Conduct programs:
  - (A) Relating to chronic illness;
  - (B) Relating to the dental and oral health of the people of this state which are appropriate to the purpose of the department; and

(C) Relating to the ~~mental and~~ physical health of the people of this state which are appropriate to the purpose of the department; and

(8) Develop the health aspects of ~~civil defense~~ emergency preparedness and emergency response.

When a plan is required to be approved by any department, agency, or instrumentality of the federal government as condition precedent to the making of grants for health purposes, the department, as agent of this state, is directed to formulate, submit, and secure approval of that plan and thereafter, upon its approval and the receipt of funds payable thereunder, to carry the plan into effect in accordance with its terms, applying thereto the funds so received as well as other applicable amounts from whatever source.

~~31-2-3.~~ 31-2-8.

The department, from time to time, shall make or cause to be made studies and surveys to determine the quality, scope, and reach of its programs.

~~31-2-4.~~ 31-2-9.

(a) The department is authorized to adopt and promulgate rules and regulations to effect prevention, abatement, and correction of situations and conditions which, if not promptly checked, would militate against the health of the people of this state. Such rules and regulations shall be adapted to the purposes intended, within the purview of the powers and duties imposed upon the department by this chapter, and supersede conflicting rules, regulations, and orders adopted pursuant to the authority of Chapter 3 of this title.

(b) The department upon application or petition may grant variances and waivers to specific rules and regulations which establish standards for facilities or entities regulated by the department as follows:

(1) The department may authorize departure from the literal requirements of a rule or regulation by granting a variance upon a showing by the applicant or petitioner that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application would cause undue hardship. The applicant or petitioner additionally must show that adequate standards affording protection of health, safety, and care exist and will be met in lieu of the exact requirements of the rule or regulation in question;

(2) The department may dispense entirely with the enforcement of a rule or regulation by granting a waiver upon a showing by the applicant or petitioner that the purpose of the rule or regulation is met through equivalent standards affording equivalent protection of health, safety, and care;

(3) The department may grant waivers and variances to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant or petitioner that the intended protections afforded by the rule or regulation which is the subject of the request are met and that the innovative approach has the potential to improve service delivery;

(4) Waivers or variances which affect an entire class of facilities may only be approved by the State Board of Human Resources Health and shall be for a time certain, as determined by the board. A notice of the proposed variance or waiver affecting an entire class of facilities shall be made in accordance with the requirements for notice of rule making in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; or

(5) Variances or waivers which affect only one facility in a class may be approved or denied by the department and shall be for a time certain, as determined by the department. The department shall maintain a record of such action and shall make this information available to the board and all other persons who request it.

This subsection shall not apply to rules adopted by the department pursuant to Code Section 31-6-21.1.

(c) The department may exempt classes of facilities from regulation when, in the department's judgment, regulation would not permit the purpose intended or the class of facilities is subject to similar requirements under other rules and regulations. Such exemptions shall be provided in rules and regulations promulgated by the board.

~~31-2-5.~~ 31-2-10.

Actions at law and in equity against the department, the board, or any of its members predicated upon omissions or acts done in their official capacity or under color thereof shall be brought in the appropriate county; provided, however, that nothing in this Code section shall be construed as waiving the immunity of the state to be sued without its consent.

~~31-2-6.~~ 31-2-11.

(a) This Code section shall be applicable to any agency, center, facility, institution, ~~community living arrangement~~, drug abuse treatment and education program, or entity subject to regulation by the department under Chapters 7, 13, 22, 23, and 44 of this title; Chapter 5 of Title 26; ~~paragraph (16) of subsection (b) and subsection (c) of Code Section 37-1-20; and Chapter 5 and Article 7 of Chapter 6 of Title 49.~~ For purposes of this Code section, the term 'license' shall be used to refer to any license, permit, registration, or commission issued by the department pursuant to the provisions of the law cited in this subsection.

(b) The department shall have the authority to take any of the actions enumerated in subsection (c) of this Code section upon a finding that the applicant or licensee has:

(1) Knowingly made any false statement of material information in connection with the application for a license, or in statements made or on documents submitted to the department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the agency, facility, institution, or entity;

(2) Failed or refused to provide the department with access to the premises subject to regulation or information pertinent to the initial or continued licensing of the agency, facility, institution, or entity;

(3) Failed to comply with the licensing requirements of this state; or

(4) Failed to comply with any ~~provisions~~ provision of this Code section.

(c) When the department finds that any applicant or licensee has violated any ~~provisions~~ provision of subsection (b) of this Code section or laws, rules, regulations, or formal orders related to the initial or continued licensing of the agency, facility, institution, or entity, the department, subject to notice and opportunity for hearing, may take any of the following actions:

(1) Refuse to grant a license; provided, however, that the department may refuse to grant a license without holding a hearing prior to taking such action;

(2) Administer a public reprimand;

(3) Suspend any license, ~~permit, registration, or commission~~ for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license;

(4) Prohibit any applicant or licensee from allowing a person who previously was involved in the management or control, as defined by rule, of any agency, facility, institution, or entity which has had its license or application revoked or denied within the past 12 months to be involved in the management or control of such agency, facility, institution, or entity;

(5) Revoke any license;

(6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for each violation of a law, rule, regulation, or formal order related to the initial or ongoing licensing of any agency, facility, institution, or entity, except that no fine may be imposed against any nursing facility, nursing home, or intermediate care facility which is subject to intermediate sanctions under the provisions of 42 U.S.C. Section 1396r(h)(2)(A), as amended, whether or not those sanctions are actually imposed; or

(7) Limit or restrict any license as the department deems necessary for the protection of the public, including, but not limited to, restricting some or all services of or admissions into an agency, facility, institution, or entity for a time certain.

In taking any of the actions enumerated in this subsection, the department shall consider the seriousness of the violation, including the circumstances, extent, and gravity of the prohibited acts, and the hazard or potential hazard created to the health or safety of the public.

(d)(1) With respect to any facility classified as a nursing facility, nursing home, or intermediate care home, the department may not take an action to fine or restrict the license of any such facility based on the same act, occurrence, or omission for which:

(A) The facility has received an intermediate sanction under the provisions of 42 U.S.C. Section 1396r(h)(2)(A), as amended, or 42 U.S.C. Section 1395i-3(h)(2)(B); or

(B) Such facility has been served formal notice of intent to take such a sanction which the ~~Department of Community Health~~ department based on administrative review or any other appropriate body based on administrative or judicial review determines not to impose; provided, however, that nothing in this subsection shall prohibit the department from utilizing the provisions authorized under subsection (f) of this Code section.

(2) When any civil monetary penalty is recommended and imposed against such facility, and the department does not resurvey the facility within 48 hours after the date by which all items on a plan of correction submitted by the facility are to be completed, the accrual of any resulting civil monetary penalties shall be suspended until the facility is resurveyed by the department.

(3) If the department resurveys such facility beyond 48 hours after the final date for completion of all items on the plan of correction submitted by the facility, and the facility is not in substantial compliance with the applicable standards, any civil monetary penalties imposed shall relate back to the date on which such penalties were suspended.

(4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, nothing contained in said paragraphs ~~(2) and (3) of this subsection~~ shall be construed as requiring the state survey agency to act in violation of applicable federal law, regulations, and guidelines.

(e) The department may deny a license or otherwise restrict a license for any applicant who has had a license denied, revoked, or suspended within one year of the date of an application or who has transferred ownership or governing authority of an agency, facility, institution, or entity subject to regulation by the department within one year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of a license.

(f) With regard to any contested case instituted by the department pursuant to this Code section or other provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action, the department may, in its discretion, dispose of the action

so instituted by settlement. In such cases, all parties, successors, and assigns to any settlement agreement shall be bound by the terms specified therein, and violation thereof by any applicant or licensee shall constitute grounds for any action enumerated in subsection (c) of this Code section.

(g) The department shall have the authority to make public or private investigations or examinations inside or outside of this state to determine whether the provisions of this Code section or any other law, rule, regulation, or formal order relating to the licensing of any agency, facility, institution, or entity has been violated. Such investigations may be initiated at any time, in the discretion of the department, and may continue during the pendency of any action initiated by the department pursuant to subsection (c) of this Code section.

(h) For the purpose of conducting any investigation, inspection, or survey, the department shall have the authority to require the production of any books, records, papers, or other information related to the initial or continued licensing of any agency, facility, institution, or entity.

(i) Pursuant to the investigation, inspection, and enforcement powers given to the department by this Code section and other applicable laws, the department may assess against an agency, facility, institution, or entity reasonable and necessary expenses incurred by the department pursuant to any administrative or legal action required by the failure of the agency, facility, institution, or entity to fully comply with the provisions of any law, rule, regulation, or formal order related to the initial or continued licensing. Assessments shall not include attorney's fees and expenses of litigation, shall not exceed other actual expenses, and shall only be assessed if such investigations, inspection, or enforcement actions result in adverse findings, as finally determined by the department, pursuant to administrative or legal action.

(j) For any action taken or any proceeding held under this Code section or under color of law, except for gross negligence or willful or wanton misconduct, the department, when acting in its official capacity, shall be immune from liability and suit to the same extent that any judge of any court of general jurisdiction in this state would be immune.

(k) In an administrative or legal proceeding under this Code section, a person or entity claiming an exemption or an exception granted by law, rule, regulation, or formal order has the burden of proving this exemption or exception.

(l) This Code section and all actions resulting from its provisions shall be administered in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(m) The provisions of this Code section shall be supplemental to and shall not operate to prohibit the department from acting pursuant to those provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action for the department. In

cases where those other provisions of law so authorize other disciplinary grounds and actions, but this Code section limits such grounds or actions, those other provisions shall apply.

(n) The department is authorized to promulgate rules and regulations to implement the provisions of this Code section.

~~31-2-7.~~ 31-2-12.

(a) As used in this Code section, the term:

(1) 'Chamber system' means a system of chambers with each chamber being a molded polyolefin plastic, arch shaped, hollow structure with an exposed bottom area and solid top and louvered sidewall for infiltration of effluent into adjoining bottom and sidewall soil areas. Chambers may be of different sizes and configurations to obtain desired surface areas.

(2) 'Conventional system' means a system traditionally used composed of perforated pipe surrounded by gravel or stone masking for the infiltration of effluent into adjoining bottom and side soil areas.

(3) 'On-site sewage management system' means a sewage management system other than a public or community sewage treatment system serving one or more buildings, mobile homes, recreational vehicles, residences, or other facilities designed or used for human occupancy or congregation. Such term shall include, without limitation, conventional and chamber septic tank systems, privies, and experimental and alternative on-site sewage management systems which are designed to be physically incapable of a surface discharge of effluent that may be approved by the department.

(4) 'Prior approved system' means only a chamber system or conventional system or component of such system which is designed to be physically incapable of a surface discharge of effluent and which was properly approved pursuant to subparagraph (a)(2)(B) of this Code section, as such Code section became law on April 19, 1994, for use according to manufacturers' recommendations, prior to April 14, 1997.

(5) 'Unsatisfactory service' means documented substandard performance as compared to other approved systems or components.

(b) The ~~Department of Human Resources~~ department shall have the authority as it deems necessary and proper to adopt state-wide regulations for on-site; sewage management systems, including but not limited to experimental and alternative systems. The department is authorized to require that any such on-site sewage management system be examined and approved prior to allowing the use of such system in the state; provided, however, that any prior approved system shall continue to be approved for installation in every county of the state pursuant to the manufacturer's recommendations, including sizing of no less than 50

percent of trench length of a conventional system designed for equal flows in similar soil conditions. Upon written request of one-half or more of the health districts in the state, the department is authorized to require the reexamination of any such system or component thereof, provided that documentation is submitted indicating unsatisfactory service of such system or component thereof. Before any such examination or reexamination, the department may require the person, persons, or organization manufacturing or marketing the system to reimburse the department or its agent for the reasonable expenses of such examination.

(c)(1) This subsection shall not be construed to prohibit the governing authority of any county or municipality in the state from adopting and enforcing codes at the local level; provided, however, that no county, municipality, or state agency may require any certified septic tank installer or certified septic tank pumper who has executed and deposited a bond as authorized in paragraph (2) of this subsection to give or furnish or execute any code compliance bond or similar bond for the purpose of ensuring that all construction, installation, or modifications are made or completed in compliance with the county or municipal ordinances or building and construction codes.

(2) In order to protect the public from damages arising from any work by a certified septic tank installer or certified septic tank pumper, which work fails to comply with any state construction codes or with the ordinances or building and construction codes adopted by any county or municipal corporation, any such certified septic tank installer or certified septic tank pumper may execute and deposit with the judge of the probate court in the county of his or her principal place of business a bond in the sum of \$10,000.00. Such bond shall be a cash bond of \$10,000.00 or executed by a surety authorized and qualified to write surety bonds in the State of Georgia and shall be approved by the local county or municipal health department. Such bond shall be conditioned upon all work done or supervised by such certificate holder complying with the provisions of any state construction codes or any ordinances or building and construction codes of any county or municipal corporation wherein the work is performed. Action on such bond may be brought against the principal and surety thereon in the name of and for the benefit of any person who suffers damages as a consequence of said certificate holder's work not conforming to the requirements of any ordinances or building and construction codes; provided, however, that the aggregate liability of the surety to all persons so damaged shall in no event exceed the sum of such bond.

(3) In any case where a bond is required under this subsection, the certified septic tank installer or certified septic tank pumper shall file a copy of the bond with the county or municipal health department in the political subdivision wherein the work is being performed.

(4) The provisions of this subsection shall not apply to or affect any bonding requirements involving contracts for public works as provided in Chapter 10 of Title 13.

(d) This Code section does not restrict the work of a plumber licensed by the State Construction Industry Licensing Board to access any on-site sewage management system for the purpose of servicing or repairing any plumbing system or connection to the on-site sewage management system.

~~31-2-8.~~ 31-2-13.

Until July 1, 2012, the department shall provide by rule or regulation for the regulation of any land disposal site that receives septic tank waste from only one septic tank pumping and hauling business and which as of June 30, 2007, operated under a valid permit for such activity as issued by the department (previously known as the Department of Human Resources for these purposes) under this Code section. No new permit shall be issued by the department under this Code section for such type of site on or after July 1, 2007, but instead any new permit issued for such type of site on or after such date shall be issued by the Department of Natural Resources under Code Section 12-8-41. This Code section shall stand repealed on July 1, 2012.

~~31-2-9.~~

~~(a) The General Assembly makes the following findings:~~

~~(1) Every year in Georgia, approximately 850 people die from suicide;~~

~~(2) More Georgians die from suicide than from homicide;~~

~~(3) More teenagers and young adults die from suicide than from cancer, heart disease, AIDS, birth defects, stroke, pneumonia, influenza, and chronic lung disease combined;~~

~~(4) Many who attempt suicide do not seek professional help after the attempt;~~

~~(5) In Georgia, three out of four suicide deaths involve a firearm;~~

~~(6) Factors such as aging, drug and alcohol abuse, unemployment, mental illness, isolation, and bullying in school contribute to causes of suicide; and~~

~~(7) Education is necessary to inform the public about the causes of suicide and the early intervention programs that are available.~~

~~(b) There is created the Suicide Prevention Program to be managed by the injury prevention section of the Division of Public Health of the Department of Human Resources.~~

~~(c) The injury prevention section, in implementing the Suicide Prevention Program, shall:~~

~~(1) Establish a link between state agencies and offices, including but not limited to the department's Division of Aging Services, Division of Family and Children Services, and Division of Mental Health, Developmental Disabilities, and Addictive Diseases, local~~

~~government agencies, health care providers, hospitals, nursing homes, and jails to collect data on suicide deaths and attempted suicides;~~

~~(2) Work with public officials to improve firearm safety;~~

~~(3) Improve education for nurses, judges, physician assistants, social workers, psychologists, and other counselors with regard to suicide education and prevention and expand educational resources for professionals working with those persons most at risk of suicide;~~

~~(4) Provide training and minimal screening tools for clergy, teachers and other educational staff, and correctional workers on how to identify and respond to persons at risk of suicide;~~

~~(5) Provide educational programs for family members of persons at an elevated risk of suicide;~~

~~(6) Develop standardized protocols to be used by the Department of Human Resources in reviewing suicide death scene investigations;~~

~~(7) Work to increase the number of follow-back studies of suicides;~~

~~(8) Work to increase the number of hospitals that code for external cause of injuries;~~

~~(9) Implement a state-wide reporting system for reporting suicides;~~

~~(10) Support pilot projects to link and analyze information on self-destructive behavior from various, distinct data systems; and~~

~~(11) Perform such other tasks as deemed appropriate to further suicide education and prevention in Georgia.~~

~~(d) The Suicide Prevention Program shall be provided staff to consist of a full-time coordinator, half-time data analyst/epidemiologist, and administrative support, all subject to available funding.~~

31-2-14.

(a) As used in this Code section, the term:

(1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of whether an appeal of the conviction has been sought.

(2) 'Crime' means commission of the following offenses:

(A) A violation of Code Section 16-5-1, relating to murder and felony murder;

(B) A violation of Code Section 16-5-21, relating to aggravated assault;

(C) A violation of Code Section 16-5-24, relating to aggravated battery;

(D) A violation of Code Section 16-5-70, relating to cruelty to children;

(E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of age or older;

(F) A violation of Code Section 16-6-1, relating to rape;

(G) A violation of Code Section 16-6-2, relating to aggravated sodomy;

(H) A violation of Code Section 16-6-4, relating to child molestation;

(I) A violation of Code Section 16-6-5, relating to enticing a child for indecent purposes;

(J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in custody, detained persons, or patients in hospitals or other institutions;

(K) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;

(L) A violation of Code Section 16-8-41, relating to armed robbery;

(M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of a disabled adult or elder person; or

(N) Any other offense committed in another jurisdiction that, if committed in this state, would be deemed to be a crime listed in this paragraph without regard to its designation elsewhere.

(3) 'Criminal record' means any of the following:

(A) Conviction of a crime;

(B) Arrest, charge, and sentencing for a crime where:

(i) A plea of nolo contendere was entered to the charge;

(ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(iii) Adjudication or sentence was otherwise withheld or not entered on the charge; or

(C) Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

(4) 'Facility' means a:

(A) Personal care home required to be licensed or permitted under Code Section 31-7-12; or

(B) Private home care provider required to be licensed under Article 13 of Chapter 7 of Title 31.

(5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of Chapter 3 of Title 35.

(6) 'GCIC information' means criminal history record information as defined in Code Section 35-3-30.

(7) 'License' means the document issued by the department to authorize the facility to operate.

(8) 'Owner' means any individual or any person affiliated with a corporation, partnership, or association with 10 percent or greater ownership interest in a facility providing care to persons under the license of the facility in this state and who:

780 (A) Purports to or exercises authority of the owner in a facility;  
781 (B) Applies to operate or operates a facility;  
782 (C) Maintains an office on the premises of a facility;  
783 (D) Resides at a facility;  
784 (E) Has direct access to persons receiving care at a facility;  
785 (F) Provides direct personal supervision of facility personnel by being immediately  
786 available to provide assistance and direction during the time such facility services are  
787 being provided; or  
788 (G) Enters into a contract to acquire ownership of a facility.  
789 (9) 'Records check application' means fingerprints in such form and of such quality as  
790 prescribed by the Georgia Crime Information Center and under standards adopted by the  
791 Federal Bureau of Investigation and a records search fee to be established by the  
792 department by rule and regulation, payable in such form as the department may direct to  
793 cover the cost of obtaining criminal background information pursuant to this Code  
794 section.  
795 (b) An owner with a criminal record shall not operate or hold a license to operate a facility,  
796 and the department shall revoke the license of any owner operating a facility or refuse to  
797 issue a license to any owner operating a facility if it determines that such owner has a  
798 criminal record; provided, however, that an owner who holds a license to operate a facility  
799 on or before June 30, 2007, shall not have his or her license revoked prior to a hearing  
800 being held before a hearing officer pursuant to Chapter 13 of Title 50, the 'Georgia  
801 Administrative Procedure Act.'  
802 (c)(1) Prior to approving any license for a new facility and periodically as established by  
803 the department by rule and regulation, the department shall require an owner to submit  
804 a records check application. The department shall establish a uniform method of  
805 obtaining an owner's records check application.  
806 (2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph,  
807 the department shall transmit to the GCIC the fingerprints and records search fee from  
808 each fingerprint records check application in accordance with Code Section 35-3-35.  
809 Upon receipt thereof, the GCIC shall promptly transmit the fingerprints to the Federal  
810 Bureau of Investigation for a search of bureau records and an appropriate report and  
811 shall promptly conduct a search of its records and records to which it has access.  
812 Within ten days after receiving fingerprints acceptable to the GCIC and the fee, the  
813 GCIC shall notify the department in writing of any criminal record or if there is no such  
814 finding. After a search of Federal Bureau of Investigation records and fingerprints and  
815 upon receipt of the bureau's report, the department shall make a determination about an

owner's criminal record and shall notify the owner in writing as to the department's determination as to whether the owner has or does not have a criminal record.

(B) The department may either perform criminal background checks under agreement with the GCIC or contract with the GCIC and appropriate law enforcement agencies which have access to GCIC and Federal Bureau of Investigation information to have those agencies perform for the department criminal background checks for owners. The department or the appropriate law enforcement agencies may charge reasonable fees for performing criminal background checks.

(3)(A) The department's determination regarding an owner's criminal record, or any action by the department revoking or refusing to grant a license based on such determination, shall constitute a contested case for purposes of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that any hearing required to be held pursuant thereto may be held reasonably expeditiously after such determination or action by the department.

(B) In a hearing held pursuant to subparagraph (A) of this paragraph or subsection (b) of this Code section, the hearing officer shall consider in mitigation the length of time since the crime was committed, the absence of additional criminal charges, the circumstances surrounding the commission of the crime, other indicia of rehabilitation, the facility's history of compliance with the regulations, and the owner's involvement with the licensed facility in arriving at a decision as to whether the criminal record requires the denial or revocation of the license to operate the facility. Where a hearing is required, at least 30 days prior to such hearing, the hearing officer shall notify the office of the prosecuting attorney who initiated the prosecution of the crime in question in order to allow the prosecutor to object to a possible determination that the conviction would not be a bar for the grant or continuation of a license as contemplated within this Code section. If objections are made, the hearing officer shall take such objections into consideration in considering the case.

(4) Neither the GCIC, the department, any law enforcement agency, nor the employees of any such entities shall be responsible for the accuracy of information nor have any liability for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information or determination based thereon pursuant to this Code section.

(d) All information received from the Federal Bureau of Investigation or the GCIC shall be for the exclusive purpose of approving or denying the granting of a license to a new facility or the revision of a license of an existing facility when a new owner is proposed and shall not be released or otherwise disclosed to any other person or agency except to any person or agency with a legal right to inspect the facility. All such information collected

by the department shall be maintained by the department pursuant to laws regarding and the rules or regulations of the Federal Bureau of Investigation and the GCIC, as is applicable. Penalties for the unauthorized release or disclosure of any such information shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal Bureau of Investigation and the GCIC, as is applicable.

(e) The requirements of this Code section are supplemental to any requirements for a license imposed by Article 3 of Chapter 5 of Title 49 or Article 11 of Chapter 7 of this title.

(f) The department shall promulgate written rules and regulations to implement the provisions of this Code section.

~~31-5A-7.~~ 31-2-15.

Performance and outcome data and pricing data for selected medical conditions, surgeries, and procedures in hospitals, ambulatory surgery centers, nursing homes, and rehabilitation centers in Georgia shall be reported to the Department of Community Health on a regular basis. The department shall provide for the establishment of a website for the purpose of providing consumers information on the cost and quality of health care in Georgia to include but not be limited to cost comparison information on certain prescription drugs at different pharmacies in Georgia, hospitals, ambulatory surgery centers, nursing homes, and rehabilitation centers and facilities in Georgia.

~~31-5A-8.~~ 31-2-16.

(a) As used in this Code section, the term:

(1) 'Biopharmaceutical' means the application of biotechnology to the development of pharmaceutical products that improve human health.

(2) 'Biotechnology' means any technological application that uses biological systems, living organisms, or derivatives thereof to make or modify products or processes for specific use.

(3) 'Georgia biotechnology, biopharmaceutical, or pharmaceutical company' means a biotechnology, biopharmaceutical, or pharmaceutical company, or a corporate division of such a company:

(A) The principal activity of which is research or development, manufacturing, or sales of health care products in this state; and

(B)(i) That had a total economic impact in this state of not less than \$60 million during the most recent taxable year;

(ii) That has total capital investment in this state of not less than \$100 million; and

(iii) That employs at least 200 Georgia ~~citizens~~ residents.

Such term shall not mean a warehouse used to store health care products.

(4) 'Pharmaceutical' means of or pertaining to the knowledge or art of pharmacy or to the art of preparing medicines according to the rules or formulas of pharmacy.

(5) 'Research and development' means experimental or laboratory activity for the ultimate purpose of developing new products, improving existing products, developing new uses for existing products, or developing or improving methods for producing products.

(6) 'Total economic impact' means the sum of total employee payroll, investment in external research and development, the value of prescription drug samples provided to physicians, and the value of prescription drugs donated to ~~low-income~~ low-income individuals through patient assistance programs.

(b) The Department of ~~Community~~ Health shall expedite the review of any prescription drug or other health care product having an approved indication from the federal Food and Drug Administration for use with humans and that is produced by a Georgia biotechnology, biopharmaceutical, or pharmaceutical company for any health care coverage provided under the state health benefit plan under Article 1 of Chapter 18 of Title 45, the medical assistance program under Article 7 of Chapter 4 of Title 49, the PeachCare for Kids program under Article 13 of Chapter 5 of Title 49, or any other health benefit plan or policy administered by or on behalf of the state. Such review shall take place as soon as practicable following the date that such drug or health care product becomes available for public consumption. This subsection shall apply to all contracts entered into or renewed by the Department of Health or its predecessor, the Department of Community Health, on or after July 1, 2008.

(c) In complying with the provisions of this Code section, the department shall consider the nexus of a biotechnology, biopharmaceutical, or pharmaceutical company in relation to the state along with the financial impact on the state, the quality of the product, and other relevant factors."

## SECTION 1-2.

Said title is further amended by revising Code Section 31-1-1, relating to definitions relative to health generally, as follows:

"31-1-1.

Except as specifically provided otherwise, as used in this title, the term:

(1) 'Board' means the State Board of Human Resources Health.

(2) 'Commissioner' means the commissioner of human resources health.

(3) 'Department' means the Department of Human Resources Health."

**SECTION 1-3.**

Said title is further amended by adding a new Code section to read as follows:

"31-1-10.

(a) The position of State Health Officer is created. The commissioner of health or the director of the Division of Public Health of the Department of Health shall be the State Health Officer, as designated by the Governor.

(b) The State Health Officer shall perform such health emergency preparedness and response duties as assigned by the Governor."

**SECTION 1-4.**

The following Code sections of the Official Code of Georgia Annotated are amended by replacing "Department of Community Health" wherever it occurs with "Department of Health":

(1) Code Section 9-2-21, relating to parties to actions to torts and notice to the Department of Community Health for a party who has received medical assistance benefits;

(2) Code Section 19-10A-2, relating to the definition of the term "medical facility" for purposes of the "Safe Place for Newborns Act of 2002";

(3) Code Section 19-11-27, relating to accident and sickness insurance coverage for children;

(4) Code Section 20-3-476, relating to authorization and administration of loan program for attendance at Colleges of Osteopathic Medicine;

(5) Code Section 20-3-511, relating to employment of staff and director for the State Medical Education Board;

(6) Code Section 20-3-513, relating to determination of amount of a medical loan or scholarship by the State Medical Education Board;

(7) Code Section 20-3-516, relating to funds for medical loans or scholarships;

(8) Code Section 24-9-47, relating to disclosure of AIDS confidential information;

(9) Code Section 25-2-13, relating to buildings presenting special hazards to persons or property;

(10) Code Section 26-4-115.1, relating to requirement that certain wholesale distributors of controlled substances and dangerous drugs provide price and quantity information;

(11) Code Section 26-4-118, relating to the Pharmacy Audit Bill of Rights;

(12) Code Section 31-6-2, relating to definitions relative to state health planning and development;

(13) Code Section 31-6-21, relating to the Department of Community Health generally relative to state health planning and development;

- 958 (14) Code Section 31-6-47, relating to exemptions from certificate of need requirements;  
959 (15) Code Section 31-7-1, relating to definitions relative to regulation of hospitals and  
960 related institutions;  
961 (16) Code Section 31-7-75, relating to the functions and powers of hospital authorities;  
962 (17) Code Section 31-7-94, relating to grants to hospital authorities;  
963 (18) Code Section 31-7-94.1, relating to the "Rural Hospital Assistance Act";  
964 (19) Code Section 31-7-95, relating to funding of medical education provided by hospital  
965 authorities and designated teaching hospitals;  
966 (20) Code Section 31-7-150, relating to definitions relative to home health agencies;  
967 (21) Code Section 31-7-250, relating to definitions relative to facility licensing and  
968 employee records checks;  
969 (22) Code Section 31-7-280, relating to annual health care provider reports;  
970 (23) Code Section 31-7-300, relating to definitions relative to private home care  
971 providers;  
972 (24) Code Section 31-7-354, relating to authority to enforce laws relating to nursing  
973 homes employee records checks;  
974 (25) Code Section 31-7-400, relating to definitions relative to hospital acquisition;  
975 (26) Code Section 31-8-46, relating to investigation of violations by a hospital;  
976 (27) Code Section 31-8-106, relating to information to be provided to residents upon  
977 admission into a long-term care facility;  
978 (28) Code Section 31-8-151, relating to definitions relative to the Indigent Care Trust  
979 Fund;  
980 (29) Code Section 31-8-162, relating to definitions relative to nursing home provider  
981 fees;  
982 (30) Code Section 31-8-171, relating to definitions relative to quality assessment fees on  
983 care management organizations;  
984 (31) Code Section 31-8-192, relating to definitions relative to the "'Health Share'  
985 Volunteers in Medicine Act";  
986 (32) Code Section 31-11-81, relating to definitions relative to emergency services;  
987 (33) Code Section 31-16-7, relating to reuse of kidney dialyzers;  
988 (34) Code Section 31-18-3, relating to reporting procedures for traumatic brain and  
989 spinal cord injuries;  
990 (35) Code Section 31-20-1, relating to definitions relative to performance of sterilization  
991 procedures;  
992 (36) Code Section 31-21-5, relating to incineration or cremation of dead body or parts  
993 thereof;

994 (37) Code Section 31-34-8, relating to funding under the "Physicians for Rural Areas  
995 Assistance Act";  
996 (38) Code Section 31-43-3, relating to the Commission on Men's Health;  
997 (39) Code Section 33-19-10, relating to limitation on hospitals with which nonprofit  
998 hospital service corporations are authorized to contract;  
999 (40) Code Section 33-20A-31, relating to definitions relative to the "Patient's Right to  
1000 Independent Review Act";  
1001 (41) Code Section 33-21-29, relating to point-of-service option for persons offered health  
1002 care coverage through a health maintenance organization;  
1003 (42) Code Section 33-21A-2, relating to definitions relative to Medicaid care  
1004 management organizations;  
1005 (43) Code Section 33-21A-3, relating to certificates of authority for care management  
1006 organizations;  
1007 (44) Code Section 33-21A-4, relating to reimbursement for emergency health care  
1008 services;  
1009 (45) Code Section 33-21A-5, relating to requirements relating to critical access hospitals;  
1010 (46) Code Section 33-21A-6, relating to coverage for newborn infants until discharged  
1011 from inpatient care;  
1012 (47) Code Section 33-21A-7, relating to bundling of provider complaints and appeals;  
1013 (48) Code Section 33-21A-8, relating to participation by dentists;  
1014 (49) Code Section 33-21A-9, relating to submission and payment of claims;  
1015 (50) Code Section 33-21A-11, relating to hospital statistical and reimbursement reports  
1016 from care management organizations;  
1017 (51) Code Section 33-24-56.1, relating to reimbursement of medical expense or disability  
1018 benefit providers in personal injury cases;  
1019 (52) Code Section 33-45-3, relating to certificate of authority requirement for operation  
1020 of continuing care facilities;  
1021 (53) Code Section 36-42-3, relating to definitions relative to the "Downtown  
1022 Development Authorities Law";  
1023 (54) Code Section 37-2-6.1, relating to community service boards;  
1024 (55) Code Section 40-2-86.8, relating to special license plates supporting breast cancer  
1025 related programs for the medically indigent;  
1026 (56) Code Section 40-2-86.21, relating to special license plates promoting certain  
1027 beneficial projects and supporting certain worthy agencies, funds, or nonprofit  
1028 corporations;  
1029 (57) Code Section 42-5-2, relating to responsibilities of governmental unit with custody  
1030 of inmate generally;

- 1031 (58) Code Section 42-5-54, relating to information from inmates relating to medical  
1032 insurance;
- 1033 (59) Code Section 43-1B-6, relating to entities excepted from prohibitions as to financing  
1034 and referrals;
- 1035 (60) Code Section 43-34-24.1, relating to the Composite State Board of Medical  
1036 Examiners as an independent agency;
- 1037 (61) Code Section 43-34-26.3, relating to delegation of certain medical acts to advanced  
1038 practice registered nurse;
- 1039 (62) Code Section 43-34-27, relating to license requirement for persons engaged in  
1040 practice of medicine;
- 1041 (63) Code Section 44-14-470, relating to liens on causes of action accruing to injured  
1042 persons for costs of care and treatment of injuries arising out of such causes of action;
- 1043 (64) Code Section 45-18-15, relating to rules and regulations for the administration of  
1044 the state employees' health insurance plan;
- 1045 (65) Code Section 45-18-100, relating to definitions relative to the Georgia Retiree  
1046 Health Benefit Fund;
- 1047 (66) Code Section 45-18-102, relating to responsibilities, duties, and powers of the  
1048 department, board, and commissioner of community health with regard to the Georgia  
1049 Retiree Health Benefit Fund;
- 1050 (67) Code Section 49-4-6, relating to reserves, income, and resources to be disregarded  
1051 in determining eligibility for public assistance;
- 1052 (68) Code Section 49-4-141, relating to definitions relative to Medicaid;
- 1053 (69) Code Section 49-4-142, relating to the authorization of the Department of  
1054 Community Health to adopt and administer a state plan for medical assistance;
- 1055 (70) Code Section 49-4-146, relating to time for action on Medicaid claim;
- 1056 (71) Code Section 49-4-146.3, relating to forfeiture of property and proceeds obtained  
1057 through Medicaid fraud;
- 1058 (72) Code Section 49-4-147, relating to enforcement of liens, claims, or offsets against  
1059 assistance;
- 1060 (73) Code Section 49-4-147.2, relating to noneligibility of Department of Community  
1061 Health to obtain nor be liable for interest on orders, judgments, and liquidated or  
1062 unliquidated amounts;
- 1063 (74) Code Section 49-4-148, relating to recovery of assistance from third party liable for  
1064 sickness, injury, disease, or disability;
- 1065 (75) Code Section 49-4-149, relating to lien of Department of Community Health against  
1066 third parties;

1067 (76) Code Section 49-4-149.1, relating to submission by the Department of Community  
1068 Health of plan for family supplementation of Medicaid payments upon federal removal  
1069 of restrictions;  
1070 (77) Code Section 49-4-150, relating to regulations as to maintenance and use of records;  
1071 (78) Code Section 49-4-151, relating to obtaining information for investigations and  
1072 audits;  
1073 (79) Code Section 49-4-152, relating to research and demonstration projects under  
1074 Medicaid;  
1075 (80) Code Section 49-4-153, relating to administrative hearings and appeals under  
1076 Medicaid;  
1077 (81) Code Section 49-4-156.1, relating to reimbursement of services rendered under  
1078 Article 5 of Chapter 6 of Title 49, relating to community care for the elderly;  
1079 (82) Code Section 49-4-157, relating to construction of Article 7 of Chapter 4 of Title  
1080 49 with the federal Social Security Act;  
1081 (83) Code Section 49-4-161, relating to definitions relative to the "Georgia Long-term  
1082 Care Partnership Program Act";  
1083 (84) Code Section 49-4-162, relating to the establishment of the Georgia Qualified  
1084 Long-term Care Partnership Program;  
1085 (85) Code Section 49-4-169.1, relating to definitions relative to therapy services for  
1086 children with disabilities;  
1087 (86) Code Section 49-5-12, relating to licensing and inspection of child welfare agencies;  
1088 (87) Code Section 49-5-272, relating to definitions relative to the PeachCare for Kids  
1089 Program;  
1090 (88) Code Section 49-10-1, relating to the Georgia Board for Physician Workforce;  
1091 (89) Code Section 50-13-9.1, relating to variances or waivers to agency rules;  
1092 (90) Code Section 50-26-19, relating to financing acquisition, construction, and  
1093 equipping of health care facilities;  
1094 (91) Code Section 51-2-5.1, relating to the relationship between hospital and health care  
1095 provider prerequisite to liability; and  
1096 (92) Code Section 52-7-14, relating to collisions, accidents, and casualties relative to  
1097 watercraft.

#### 1098 **SECTION 1-5.**

1099 The following Code sections of the Official Code of Georgia Annotated are amended by  
1100 replacing "Board of Community Health" wherever it occurs with "State Board of Health":  
1101 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for  
1102 public school teachers;

- 1103 (2) Code Section 20-2-910, relating to definitions relative to health insurance plans for  
1104 public school employees;
- 1105 (3) Code Section 31-6-2, relating to definitions relative to state health planning and  
1106 development;
- 1107 (4) Code Section 31-6-21, relating to the Department of Community Health generally  
1108 relative to state health planning and development;
- 1109 (5) Code Section 31-7-1, relating to definitions relative to regulation of hospitals and  
1110 related institutions;
- 1111 (6) Code Section 31-8-155, relating to promulgation of rules and regulations for funding  
1112 expansions of eligibility and indigent care programs;
- 1113 (7) Code Section 45-18-1, relating to definitions relative to the state employees' health  
1114 insurance plan;
- 1115 (8) Code Section 45-18-12, relating to the creation of a health insurance fund for the  
1116 state employees' health insurance plan;
- 1117 (9) Code Section 45-18-100, relating to definitions relative to the Georgia Retiree Health  
1118 Benefit Fund;
- 1119 (10) Code Section 49-4-141, relating to definitions relative to Medicaid;
- 1120 (11) Code Section 49-4-143, relating to the power of the Board of Community Health  
1121 with respect to Medicaid;
- 1122 (12) Code Section 49-4-150, relating to regulations as to maintenance and use of records;
- 1123 (13) Code Section 49-4-153, relating to administrative hearings and appeals under  
1124 Medicaid; and
- 1125 (14) Code Section 49-5-272, relating to definitions relative to the PeachCare for Kids  
1126 Program.

1127 **SECTION 1-6.**

1128 The following Code sections of the Official Code of Georgia Annotated are amended by  
1129 replacing "commissioner of community health" wherever it occurs with "commissioner of  
1130 health":

- 1131 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for  
1132 public school teachers;
- 1133 (2) Code Section 20-2-896, relating to the administrative discharge of certain debts due  
1134 the health insurance fund for public school teachers;
- 1135 (3) Code Section 20-2-910, relating to definitions relative to health insurance plans for  
1136 public school employees;
- 1137 (4) Code Section 20-2-924, relating to the administrative discharge of certain debts due  
1138 the health insurance fund for public school employees;

- 1139 (5) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
- 1140 (6) Code Section 31-7-1, relating to definitions relative to regulation of hospitals and
- 1141 related institutions;
- 1142 (7) Code Section 31-21-5, relating to incineration or cremation of dead body or parts
- 1143 thereof;
- 1144 (8) Code Section 33-21A-3, relating to certificates of authority for care management
- 1145 organizations;
- 1146 (9) Code Section 43-34-24.1, relating to the Composite State Board of Medical
- 1147 Examiners as an independent agency;
- 1148 (10) Code Section 45-18-1, relating to definitions relative to the state employees' health
- 1149 insurance plan;
- 1150 (11) Code Section 45-18-12, relating to the creation of a health insurance fund for the
- 1151 state employees' health insurance plan;
- 1152 (12) Code Section 45-18-13, relating to deposit of amounts from health insurance fund
- 1153 available for investment in trust account;
- 1154 (13) Code Section 45-18-15, relating to rules and regulations relative to the state
- 1155 employees' health insurance plan;
- 1156 (14) Code Section 45-18-16, relating to certification to departments and other entities of
- 1157 the state of employer payment percentage for the ensuing fiscal year;
- 1158 (15) Code Section 45-18-18, relating to the discharge of certain debts or obligations due
- 1159 the health insurance fund for employees of the state;
- 1160 (16) Code Section 45-18-100, relating to definitions relative to the Georgia Retiree
- 1161 Health Benefit Fund;
- 1162 (17) Code Section 49-4-144, relating to the chief administrative officer of the
- 1163 Department of Community Health;
- 1164 (18) Code Section 49-4-147, relating to enforcement of liens, claims, or offsets against
- 1165 assistance under Medicaid;
- 1166 (19) Code Section 49-4-148, relating to recovery of assistance from third party liable for
- 1167 sickness, injury, disease, or disability under Medicaid;
- 1168 (20) Code Section 49-4-150, relating to regulations as to maintenance and use of records
- 1169 relating to Medicaid;
- 1170 (21) Code Section 49-4-153, relating to administrative hearings and appeals under
- 1171 Medicaid; and
- 1172 (22) Code Section 50-5-69, relating to purchases without competitive bidding by state
- 1173 agencies.

**SECTION 1-7.**

The following Code sections of the Official Code of Georgia Annotated are amended by replacing "Department of Human Resources" wherever it occurs with "Department of Health":

- (1) Code Section 4-4-69, relating to regulation of manufacture and use of disease vectors in livestock;
- (2) Code Section 4-10-10, relating to the joint regulation of the sale or transportation of exotic or pet birds;
- (3) Code Section 10-1-393, relating to unfair or deceptive practices in consumer transactions which are deemed unlawful;
- (4) Code Section 12-2-8, relating to promulgation of minimum standards and procedures for protection of natural resources, environment, and vital areas of the state;
- (5) Code Section 12-3-9, relating to adoption and promulgation by the Board of Natural Resources of rules and regulations regarding parks, historic sites, and recreational areas;
- (6) Code Section 12-5-175, relating to fluoridation of public water systems;
- (7) Code Section 12-8-1, relating to notice of denial of individual sewage disposal permits;
- (8) Code Section 15-21-142, relating to the establishment of the Brain and Spinal Injury Trust Fund Commission;
- (9) Code Section 16-6-13.1, relating to testing for sexually transmitted diseases;
- (10) Code Section 16-12-141, relating to when abortion is legal;
- (11) Code Section 17-10-15, relating to AIDS transmitting crimes;
- (12) Code Section 19-3-41, relating to preparation by the Department of Human Resources of a marriage manual on family planning and other material;
- (13) Code Section 20-2-142, relating to prescribed courses in elementary and secondary schools on alcohol, tobacco, and drug use;
- (14) Code Section 20-2-143, relating to sex education and AIDS prevention instruction in elementary and secondary schools;
- (15) Code Section 20-2-144, relating to mandatory instruction in elementary and secondary schools concerning alcohol and drug use;
- (16) Code Section 20-2-770, relating to rules and regulations for nutritional screening and eye, ear, and dental examinations of students;
- (17) Code Section 20-2-771, relating to immunization of students in elementary and secondary education;
- (18) Code Section 20-2-772, relating to rules and regulations for screening of students for scoliosis;

- 1210 (19) Code Section 24-9-40, relating to when medical information may be released by a  
1211 physician, hospital, health care facility, or pharmacist;
- 1212 (20) Code Section 24-9-47, relating to disclosure of AIDS confidential information;
- 1213 (21) Code Section 25-3-6, relating to the effect of certain laws relating to local fire  
1214 departments on the powers and duties of other officials and departments;
- 1215 (22) Code Section 26-2-371, relating to permits required for food service establishments;
- 1216 (23) Code Section 26-2-372, relating to the issuance of permits for food service  
1217 establishments;
- 1218 (24) Code Section 26-2-373, relating to promulgation of rules, regulations, and standards  
1219 by the Department of Human Resources and county boards of health for food service  
1220 establishments;
- 1221 (25) Code Section 26-2-374, relating to contents and posting of notices relating to  
1222 assistance to persons choking;
- 1223 (26) Code Section 26-2-375, relating to enforcement of laws regarding the regulation of  
1224 food service establishments;
- 1225 (27) Code Section 26-2-376, relating to review of final order or determination by  
1226 Department of Human Resources regarding regulation of a food service establishment;
- 1227 (28) Code Section 26-2-377, relating to penalties for violation of laws regarding the  
1228 regulation of food service establishments;
- 1229 (29) Code Section 26-3-18, relating to assistance in enforcement from Department of  
1230 Agriculture or Department of Human Resources with respect to standards, labeling, and  
1231 adulteration of drugs and cosmetics;
- 1232 (30) Code Section 26-4-85, relating to patient counseling by a pharmacist;
- 1233 (31) Code Section 26-4-116, relating to emergency service providers with respect to  
1234 dangerous drugs and controlled substances;
- 1235 (32) Code Section 26-4-172, relating to license requirements under the "Nuclear  
1236 Pharmacy Law";
- 1237 (33) Code Section 26-5-3, relating to definitions relative to the "Drug Abuse Treatment  
1238 and Education Act";
- 1239 (34) Code Section 31-1-3.2, relating to hearing screenings for newborns;
- 1240 (35) Code Section 31-3-4, relating to powers of county boards of health;
- 1241 (36) Code Section 31-3-11, relating to appointments of director and staff of county board  
1242 of health;
- 1243 (37) Code Section 31-5-1, relating to adoption of rules and regulations by the  
1244 Department of Human Resources and county boards of health;
- 1245 (38) Code Section 31-5-9, relating to injunctions for enjoining violations of the  
1246 provisions of Title 31;

- 1247 (39) Code Section 31-5-20, relating to the definition of the term "inspection warrant"  
1248 with respect to enforcement of certain public health laws;
- 1249 (40) Code Section 31-5-21, relating to persons who may obtain inspection warrants;
- 1250 (41) Code Section 31-7-133, relating to confidentiality of review organization's records;
- 1251 (42) Code Section 31-7-172, relating to definitions relative to hospice care;
- 1252 (43) Code Section 31-7-175, relating to the administration of the article of the "Georgia  
1253 Hospice Law";
- 1254 (44) Code Section 31-8-1, relating to the establishment and purpose of the Hospital Care  
1255 for the Indigent Program;
- 1256 (45) Code Section 31-8-36, relating to state appropriations to the Nonresident Indigent  
1257 Health Care Fund;
- 1258 (46) Code Section 31-8-46, relating to investigation of violations by a hospital;
- 1259 (47) Code Section 31-8-193, relating to the establishment of a program to provide health  
1260 care services to low-income recipients;
- 1261 (48) Code Section 31-9A-4, relating to information to be made available by the  
1262 Department of Human Resources under the "Woman's Right to Know Act";
- 1263 (49) Code Section 31-9A-6, relating to reporting requirements under the "Woman's Right  
1264 to Know Act";
- 1265 (50) Code Section 31-10-1, relating to definitions relative to vital records;
- 1266 (51) Code Section 31-11-1, relating to findings of the General Assembly and declaration  
1267 of policy with respect to emergency medical services;
- 1268 (52) Code Section 31-11-3, relating to recommendations by local coordinating entity as  
1269 to administration of the Emergency Medical Systems Communication Program;
- 1270 (53) Code Section 31-11-81, relating to definitions relative to emergency services;
- 1271 (54) Code Section 31-11-100, relating to definitions relative to the Georgia Trauma Care  
1272 Network Commission;
- 1273 (55) Code Section 31-11-101, relating to the creation of the Georgia Trauma Care  
1274 Network Commission;
- 1275 (56) Code Section 31-11-102, relating to the duties and responsibilities of the Georgia  
1276 Trauma Care Network Commission;
- 1277 (57) Code Section 31-11-110, relating to legislative findings relative to a system of  
1278 certified stroke centers;
- 1279 (58) Code Section 31-12-1, relating to the power to conduct research and studies relative  
1280 to the control of hazardous conditions, preventable diseases, and metabolic diseases;
- 1281 (59) Code Section 31-12A-9, relating to a continuing education program relative to the  
1282 "Georgia Smokefree Air Act of 2005";

- 1283 (60) Code Section 31-12A-10, relating to enforcement by the Department of Human  
1284 Resources and county boards of health of the "Georgia Smokefree Air Act of 2005";
- 1285 (61) Code Section 31-13-3, relating to definitions relative to the "Georgia Radiation  
1286 Control Act";
- 1287 (62) Code Section 31-13-4, relating to administration of state-wide radiation control  
1288 program for radiation generating equipment;
- 1289 (63) Code Section 31-13-5, relating to the powers and duties of the Department of  
1290 Human Resources and the Department of Natural Resources under the "Georgia  
1291 Radiation Control Act";
- 1292 (64) Code Section 31-13-8.2, relating to licensing of diagnostic and therapeutic medical  
1293 uses of radioactive materials;
- 1294 (65) Code Section 31-13-9, relating to records of use of radiation sources and exposure  
1295 of employees to radiation;
- 1296 (66) Code Section 31-13-10, relating to suspension, revocation, and amendment of  
1297 license or registration of radiation generating equipment;
- 1298 (67) Code Section 31-13-11, relating to impounding and condemnation of radiation  
1299 generating equipment and radioactive materials;
- 1300 (68) Code Section 31-13-12, relating to the license requirements under the "Georgia  
1301 Radiation Control Act";
- 1302 (69) Code Section 31-13-13, relating to penalties under the "Georgia Radiation Control  
1303 Act";
- 1304 (70) Code Section 31-13-23, relating to transfer of powers and duties between the  
1305 Department of Natural Resources and the Department of Human Resources under the  
1306 "Georgia Radiation Control Act";
- 1307 (71) Code Section 31-14-2, relating to petition for commitment of a person who has  
1308 active tuberculosis;
- 1309 (72) Code Section 31-14-9, relating to procedure for securing discharge of a person  
1310 committed for active tuberculosis;
- 1311 (73) Code Section 31-15-2, relating to the establishment of a program for the prevention,  
1312 control, and treatment of cancer;
- 1313 (74) Code Section 31-16-2, relating to the establishment of a program for the prevention,  
1314 control, and treatment of kidney disease;
- 1315 (75) Code Section 31-17-2, relating to the report of diagnosis or treatment to health  
1316 authorities of a case of venereal disease;
- 1317 (76) Code Section 31-17-3, relating to examination and treatment by health authorities  
1318 for venereal disease;
- 1319 (77) Code Section 31-17-4.2, relating to HIV pregnancy screening;

- 1320 (78) Code Section 31-17A-2, relating to examination of persons infected or suspected  
1321 of being infected with HIV;
- 1322 (79) Code Section 31-17A-3, relating to refusal to consent to an HIV test;
- 1323 (80) Code Section 31-18-4, relating to the duties of the Brain and Spinal Injury Trust  
1324 Fund Commission;
- 1325 (81) Code Section 31-21-25, relating to bonds required prior to receiving unclaimed  
1326 bodies;
- 1327 (82) Code Section 31-22-2, relating to licenses to operate clinical laboratories;
- 1328 (83) Code Section 31-22-9.1, relating to who may perform HIV tests;
- 1329 (84) Code Section 31-22-9.2, relating to report of positive HIV tests;
- 1330 (85) Code Section 31-23-3, relating to hospitals or medical schools which may operate  
1331 eye banks;
- 1332 (86) Code Section 31-24-4, relating to labeling of containers of blood under "The Blood  
1333 Labeling Act";
- 1334 (87) Code Section 31-26-2, relating to the requirement of a certificate to practice  
1335 midwifery;
- 1336 (88) Code Section 31-27-2, relating to the requirement of a permit for a mass gathering;
- 1337 (89) Code Section 31-28-2, relating to issuance of permits to operate a tourist court;
- 1338 (90) Code Section 31-28-5, relating to standards for health, sanitation, and safety of  
1339 tourist courts;
- 1340 (91) Code Section 31-28-6, relating to inspection of premises of tourist courts;
- 1341 (92) Code Section 31-30-9, relating to effectiveness of chapter on reports on veterans  
1342 exposed to agent orange;
- 1343 (93) Code Section 31-34-5, relating to service cancelable loans under the "Physicians for  
1344 Rural Areas Assistance Act";
- 1345 (94) Code Section 31-35-10, relating to definitions relative to bioterrorism protection for  
1346 emergency providers;
- 1347 (95) Code Section 31-40-2, relating to issuance of permits for tattoo studios;
- 1348 (96) Code Section 31-40-5, relating to rules and regulations relative to tattoo studios;
- 1349 (97) Code Section 31-40-6, relating to enforcement of chapter regulating tattoo studios;
- 1350 (98) Code Section 31-40-8, relating to a public education program relative to tattoo  
1351 studios;
- 1352 (99) Code Section 31-45-8, relating to inspections by the county board of health of  
1353 public swimming pools;
- 1354 (100) Code Section 31-45-9, relating to suspension or revocation of permit for a public  
1355 swimming pool;

- 1356 (101) Code Section 31-45-10, relating to rules and regulations relative to public  
1357 swimming pools;
- 1358 (102) Code Section 31-45-11, relating to enforcement of rules and regulations relative  
1359 to public swimming pools;
- 1360 (103) Code Section 31-46-4, relating to the Georgia Commission for Saving the Cure;
- 1361 (104) Code Section 33-24-59.7, relating to insurance coverage for the treatment of  
1362 morbidly obese patients;
- 1363 (105) Code Section 33-29-3.2, relating to individual accident and sickness insurance  
1364 coverage for mammograms, Pap smears, and prostate specific antigen tests;
- 1365 (106) Code Section 33-30-4.2, relating to group accident and sickness insurance  
1366 coverage for mammograms, Pap smears, and prostate specific antigen tests;
- 1367 (107) Code Section 33-44-3, relating to the creation of the Georgia High Risk Health  
1368 Insurance Plan;
- 1369 (108) Code Section 34-9-1, relating to definitions relative to workers' compensation;
- 1370 (109) Code Section 34-9-415, relating to testing under drug-free workplace programs;
- 1371 (110) Code Section 35-1-8, relating to acquisition, collection, classification, and  
1372 preservation of information assisting in identifying deceased persons and locating missing  
1373 persons;
- 1374 (111) Code Section 36-62-2, relating to definitions relative to the "Development  
1375 Authorities Law";
- 1376 (112) Code Section 38-3-22, relating to the Governor's emergency management powers  
1377 and duties;
- 1378 (113) Code Section 38-3-51, relating to emergency powers of the Governor;
- 1379 (114) Code Section 40-5-25, relating to applications for instruction permits and drivers'  
1380 licenses;
- 1381 (115) Code Section 40-6-392, relating to chemical tests for alcohol or drugs in blood  
1382 relating to violations of driving under the influence of alcohol, drugs, or other  
1383 intoxicating substances;
- 1384 (116) Code Section 42-1-7, relating to notification to transporting law enforcement  
1385 agency of inmate's or patient's infectious or communicable disease;
- 1386 (117) Code Section 42-4-6, relating to confinement and care of tubercular inmates;
- 1387 (118) Code Section 42-4-32, relating to sanitation and health requirements for jails;
- 1388 (119) Code Section 43-10-6, relating to rules and regulations as to sanitary requirements  
1389 of beauty shops, beauty salons, schools of cosmetology, schools of esthetics, schools of  
1390 hair design, and schools of nail care;
- 1391 (120) Code Section 43-11-74, relating to direct supervision requirement of dental  
1392 hygienists by a licensed dentist;

- 1393 (121) Code Section 43-14-2, relating to definitions relative to the regulation of electrical  
1394 contractors, plumbers, conditioned air contractors, low-voltage contractors, and utility  
1395 contractors;
- 1396 (122) Code Section 43-18-1, relating to definitions relative to the regulation of funeral  
1397 directors and establishments, embalmers, and crematories;
- 1398 (123) Code Section 43-18-46, relating to grounds for denial or revocation of license or  
1399 registration to operate a funeral establishment or to practice embalming or funeral  
1400 directing;
- 1401 (124) Code Section 43-27-1, relating to definitions relative to nursing home  
1402 administrators;
- 1403 (125) Code Section 43-34-26.1, relating to delegation of authority to nurse or physician's  
1404 assistant;
- 1405 (126) Code Section 43-34-26.3, relating to delegation of certain medical acts to advanced  
1406 practice registered nurse;
- 1407 (127) Code Section 43-34-103, relating to applications for utilization of physician's  
1408 assistants;
- 1409 (128) Code Section 45-18-1, relating to definitions relative to the state employees' health  
1410 insurance plan;
- 1411 (129) Code Section 45-18-32, relating to administration of deferred compensation plans  
1412 for employees of the state;
- 1413 (130) Code Section 46-11-4, relating to regulation of transportation of hazardous  
1414 materials on public roads of the state generally;
- 1415 (131) Code Section 49-4-152.3, relating to reuse of unit dosage drugs under Medicaid;
- 1416 (132) Code Section 50-13-4, relating to procedural requirements for adoption,  
1417 amendment, or repeal of rules by a state agency;
- 1418 (133) Code Section 50-18-72, relating to when public disclosure is not required under  
1419 open records laws;
- 1420 (134) Code Section 50-18-76, relating to written matter exempt from disclosure under  
1421 vital records laws; and
- 1422 (135) Code Section 50-26-4, relating to definitions relative to the "Georgia Housing and  
1423 Finance Authority Act."

1424 **SECTION 1-8.**

- 1425 The following Code sections of the Official Code of Georgia Annotated are amended by  
1426 replacing "Board of Human Resources" wherever it occurs with "State Board of Health":
- 1427 (1) Code Section 31-1-3.2, relating to hearing screenings for newborns;
- 1428 (2) Code Section 31-7-304, relating to fees on private home care providers;

- 1429 (3) Code Section 31-11-2, relating to definitions relative to emergency medical services;  
1430 (4) Code Section 31-11-3, relating to recommendations by local coordinating entity as  
1431 to administration of the Emergency Medical Systems Communication Program;  
1432 (5) Code Section 31-11-31.1, relating to license fees on ambulance services;  
1433 (6) Code Section 31-12-14, relating to breast cancer, prostate cancer, and ovarian cancer  
1434 research program fund;  
1435 (7) Code Section 31-22-1, relating to definitions relative to clinical laboratories;  
1436 (8) Code Section 42-9-12, relating to appointment of replacement for incapacitated  
1437 member on the State Board of Pardons and Paroles; and  
1438 (9) Code Section 43-7-9, relating to general powers and duties of the State Board of  
1439 Barbers.

1440 **SECTION 1-9.**

1441 The following Code sections of the Official Code of Georgia Annotated are amended by  
1442 replacing "commissioner of human resources" wherever it occurs with "commissioner of  
1443 health":

- 1444 (1) Code Section 8-2-24, relating to appointment of advisory committee relating to state  
1445 building, plumbing, and electrical codes;  
1446 (2) Code Section 12-5-524, relating to the creation of the Water Council;  
1447 (3) Code Section 16-12-141, relating to when abortion is legal;  
1448 (4) Code Section 16-12-141.1, relating to disposal of aborted fetuses;  
1449 (5) Code Section 21-2-231, relating to lists of persons convicted of felonies, persons  
1450 declared mentally incompetent, and deceased persons provided to Secretary of State with  
1451 respect to registration of voters;  
1452 (6) Code Section 26-2-393, relating to enforcement of article relating to nonprofit food  
1453 sales and food service;  
1454 (7) Code Section 31-7-176.1, relating to determination or pronouncement of death of a  
1455 patient in hospice care;  
1456 (8) Code Section 31-8-32, relating to determination of indigency for hospital care for  
1457 nonresidents;  
1458 (9) Code Section 31-8-43, relating to determination of indigency for hospital care for  
1459 pregnant women;  
1460 (10) Code Section 31-9A-2, relating to definitions relative to the "Woman's Right to  
1461 Know Act";  
1462 (11) Code Section 31-10-1, relating to definitions relative to vital records;  
1463 (12) Code Section 31-11-2, relating to definitions relative to emergency medical  
1464 services;

- 1465 (13) Code Section 31-11-36, relating to suspension or revocation of licenses for  
1466 ambulance services;
- 1467 (14) Code Section 31-16-3, relating to functions of the Kidney Disease Advisory  
1468 Committee;
- 1469 (15) Code Section 31-27-7, relating to emergency powers of the Governor regarding  
1470 mass gatherings;
- 1471 (16) Code Section 31-35-10, relating to definitions relative to bioterrorism protection for  
1472 emergency responders;
- 1473 (17) Code Section 31-36A-7, relating to petition for health care placement transfer,  
1474 admission, or discharge order by health care facility;
- 1475 (18) Code Section 33-20B-3.1, relating to health maintenance organizations' expansion  
1476 into rural areas;
- 1477 (19) Code Section 33-21-3, relating to grounds and procedure for issuance or denial of  
1478 certificate of authority for a health maintenance organization;
- 1479 (20) Code Section 33-21-5, relating to suspension or revocation of certificate of authority  
1480 for a health maintenance organization;
- 1481 (21) Code Section 33-21-15, relating to filing of annual reports by health maintenance  
1482 organizations;
- 1483 (22) Code Section 33-21-17, relating to examinations of health maintenance  
1484 organizations and providers;
- 1485 (23) Code Section 33-21-18, relating to adoption of rules and regulations generally  
1486 relative to health maintenance organizations;
- 1487 (24) Code Section 33-21-20, relating to conduct of hearings generally relative to health  
1488 maintenance organizations;
- 1489 (25) Code Section 33-21-21, relating to authority of commissioner of human resources  
1490 to contract for making of recommendations required by health maintenance organizations  
1491 laws;
- 1492 (26) Code Section 33-21-27, relating to enforcement of health maintenance organizations  
1493 laws;
- 1494 (27) Code Section 38-2-10, relating to use of National Guard in drug law enforcement,  
1495 provision of medical care in medically underserved areas, and for youth opportunity  
1496 training programs;
- 1497 (28) Code Section 42-4-32, relating to sanitation and health requirements in jails  
1498 generally;
- 1499 (29) Code Section 42-9-12, relating to appointment of replacement for incapacitated  
1500 member on the State Board of Pardons and Paroles;
- 1501 (30) Code Section 43-1A-4, relating to the Occupational Regulation Review Council;

- 1502 (31) Code Section 43-27-2, relating to creation of the State Board of Nursing Home  
1503 Administrators;
- 1504 (32) Code Section 43-45-3, relating to creation of the State Structural Pest Control  
1505 Commission;
- 1506 (33) Code Section 45-9-73, relating to the creation of the Georgia Public School  
1507 Personnel Indemnification Commission; and
- 1508 (34) Code Section 45-9-83, relating to the creation of the Georgia State Indemnification  
1509 Commission.

#### 1510 **SECTION 1-10.**

1511 The following Code sections of the Official Code of Georgia Annotated are amended by  
1512 replacing "Chapter 5A of Title 31" wherever it occurs with "Chapter 2 of Title 31":

- 1513 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for  
1514 public school teachers;
- 1515 (2) Code Section 20-2-910, relating to definitions relative to health insurance plans for  
1516 public school employees;
- 1517 (3) Code Section 33-20A-31, relating to definitions relative to the "Patient's Right to  
1518 Independent Review Act";
- 1519 (4) Code Section 45-18-1, relating to definitions relative to the state employees' health  
1520 insurance plan;
- 1521 (5) Code Section 49-4-141, relating to definitions relative to Medicaid;
- 1522 (6) Code Section 49-4-142, relating to the authorization of the Department of  
1523 Community Health to adopt and administer a state plan for medical assistance;
- 1524 (7) Code Section 49-4-143, relating to the power of the Board of Community Health with  
1525 respect to Medicaid; and
- 1526 (8) Code Section 49-4-144, relating to the chief administrative officer of the Department  
1527 of Community Health.

#### 1528 **SECTION 1-11.**

1529 The following Code sections of the Official Code of Georgia Annotated are amended by  
1530 replacing "Chapter 5A of this title" wherever it occurs with "Chapter 2 of this title":

- 1531 (1) Code Section 31-6-2, relating to definitions relative to state health planning and  
1532 development;
- 1533 (2) Code Section 31-6-21, relating to the Department of Community Health generally  
1534 under state health planning and development;
- 1535 (3) Code Section 31-7-94.1, relating to the "Rural Hospital Assistance Act;"
- 1536 (4) Code Section 31-8-151, relating to definitions relative to the indigent care trust fund;

- 1537 (5) Code Section 31-8-162, relating to definitions relative to nursing home provider fees;  
1538 and  
1539 (6) Code Section 31-8-171, relating to definitions relative to quality assessment fees on  
1540 care management organizations.

1541 **SECTION 1-12.**

1542 The following Code sections of the Official Code of Georgia Annotated are amended by  
1543 replacing "Code Section 31-2-6" wherever it occurs with "Code Section 31-2-11":

- 1544 (1) Code Section 25-2-40, relating to smoke detectors required in new dwellings and  
1545 dwelling units;  
1546 (2) Code Section 31-7-2.1, relating to rules and regulations relative to regulation of  
1547 hospitals and related institutions;  
1548 (3) Code Section 31-7-302, relating to rules and regulations relative to private home care  
1549 providers;  
1550 (4) Code Section 31-8-60, relating to retaliation against a resident of a long-term care  
1551 facility and prohibition against interference with the ombudsman;  
1552 (5) Code Section 31-8-135, relating to hearings under the "Remedies for Residents of  
1553 Personal Care Homes Act";  
1554 (6) Code Section 31-11-9, relating to enforcement of emergency medical services laws;  
1555 and  
1556 (7) Code Section 31-44-11, relating to the authority of the Department of Human  
1557 Resources to deal with violations of renal disease facilities laws.

1558 **SECTION 1-13.**

1559 The following Code sections of the Official Code of Georgia Annotated are amended by  
1560 replacing "Code Section 31-2-7" wherever it occurs with "Code Section 31-2-12":

- 1561 (1) Code Section 31-3-5, relating to functions of county boards of health;  
1562 (2) Code Section 31-3-5.1, relating to conformity prerequisite to building permit; and  
1563 (3) Code Section 50-13-4, relating to procedural requirements for adoption, amendment,  
1564 or repeal of rules.

1565 **SECTION 1-14.**

1566 Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or  
1567 deceptive practices in consumer transactions which are deemed unlawful, is amended by  
1568 revising paragraph (26) of subsection (b) as follows:

- 1569 "(26) With respect to any individual or facility providing personal care services:

1570 (A) Any person or entity not duly licensed or registered as a personal care home  
 1571 formally or informally offering, advertising to, or soliciting the public for residents or  
 1572 referrals;

1573 (B) Any personal care home, as defined in subsection (a) of Code Section 31-7-12,  
 1574 offering, advertising, or soliciting the public to provide services:

1575 (i) Which are outside the scope of personal care services; and  
 1576 (ii) For which it has not been specifically authorized.

1577 Nothing in this subparagraph prohibits advertising by a personal care home for services  
 1578 authorized by the Department of ~~Human Resources~~ Health under a waiver or variance  
 1579 pursuant to subsection (b) of Code Section ~~31-2-4~~ 31-2-9;

1580 (C) For purposes of this paragraph, 'personal care' means protective care and watchful  
 1581 oversight of a resident who needs a watchful environment but who does not have an  
 1582 illness, injury, or disability which requires chronic or convalescent care including  
 1583 medical and nursing services.

1584 The provisions of this paragraph shall be enforced following consultation with the  
 1585 Department of ~~Human Resources~~ Health which shall retain primary responsibility for  
 1586 issues relating to licensure of any individual or facility providing personal care services;"

#### 1587 **SECTION 1-15.**

1588 Code Section 12-8-41 of the Official Code of Georgia Annotated, relating to permits issued  
 1589 by the Department of Natural Resources for land disposal sites, is amended as follows:

1590 "12-8-41.

1591 The department shall provide by rule or regulation for the regulation and permitting of any  
 1592 land disposal site that receives septic tank waste from any one or more septic tank pumping  
 1593 and hauling businesses. Any new permit issued for such type of site on or after July 1,  
 1594 2007, shall be issued by the department under this Code section. Any such type of site that  
 1595 as of June 30, 2007, operated under a valid permit issued on or before such date by the  
 1596 Department of Human Resources (now known as the Department of Health for these  
 1597 purposes) under Code Section ~~31-2-8~~ 31-2-13 may continue to operate under such Code  
 1598 section until July 1, 2012, but a permit shall be obtained from the department under this  
 1599 Code section prior to such date in order to continue such operation thereafter."

#### 1600 **SECTION 1-16.**

1601 Code Section 15-11-66.1 of the Official Code of Georgia Annotated, relating to disposition  
 1602 of a child committing delinquent act constituting AIDS transmitting crime, is amended by  
 1603 revising subsection (e) as follows:

"(e) If a child is required by this Code section to submit to an HIV test and is thereby determined to be infected with HIV, that determination and the name of the child shall be deemed to be AIDS confidential information and shall be reported to:

(1) The Department of Juvenile Justice or the Department of Corrections, as the case may be, and the Department of ~~Human Resources~~ Health, the latter of which may disclose the name of the child if necessary to provide and shall provide counseling to each victim of that child's AIDS transmitting crime or to any parent or guardian of any victim who is a minor or incompetent person, if the Department of Juvenile Justice or the Department of Corrections believes the crime posed a reasonable risk of transmitting HIV to the victim;

(2) The court which ordered the HIV test; and

(3) Those persons in charge of any facility to which the child has been confined by order of the court. In addition to any other restrictions regarding the confinement of children, a child determined to be an HIV infected person may be confined in that facility separately from any other children in that facility other than those who have been determined to be infected with HIV if:

(A) That child is reasonably believed to be sexually active while confined;

(B) That child is reasonably believed to be sexually predatory either during or prior to detention; or

(C) The commissioner of juvenile justice or the commissioner of corrections, as the case may be, reasonably determines that other circumstances or conditions exist which indicate that separate confinement would be warranted."

#### **SECTION 1-17.**

Code Section 15-21-143 of the Official Code of Georgia Annotated, relating to appointment of members and personnel of the Brain and Spinal Injury Trust Fund Commission, is amended as follows:

"15-21-143.

(a) The Brain and Spinal Injury Trust Fund Commission shall consist of 15 members who shall serve for terms of two years, except that with respect to the first members appointed, five members shall be appointed for a term of three years, five for a term of two years, and five for a term of one year. The following agencies may each appoint one member of the commission:

(1) The Division of Rehabilitation Services of the Department of Labor;

(2) The State Board of Education;

(3) The Department of Public Safety;

(4) The Department of ~~Community~~ Health; and

(5) The Department of Human ~~Resources~~ Services.

The remaining ten members of the commission shall be appointed by the Governor, seven of whom shall be citizens who have sustained brain or spinal cord injury or members of such persons' immediate families, no more than one of whom shall reside in the same geographic area of the state which constitutes a health district established by the Department of ~~Human Resources~~ Health. The Governor is authorized but not required to appoint the remaining three members from recommendations submitted by the Private Rehabilitation Suppliers of Georgia, the Georgia Hospital Association, the Brain Injury Association of Georgia, the Medical Association of Georgia, and the Georgia State Medical Association. The Governor shall also establish initial terms of office for all 15 members of the board within the limitations of this subsection.

(b) In the event of death, resignation, disqualification, or removal for any reason of any member of the commission, the vacancy shall be filled in the same manner as the original appointment and the successor shall serve for the unexpired term.

(c) Membership on the commission does not constitute public office, and no member shall be disqualified from holding public office by reason of his or her membership.

(d) The Governor shall designate a chairperson of the commission from among the members, which chairperson shall serve in that position at the pleasure of the Governor. The commission may elect such other officers and committees as it considers appropriate.

(e) The commission, with the approval of the Governor, may employ such professional, technical, or clerical personnel as deemed necessary to carry out the purposes of this chapter."

#### SECTION 1-18.

Code Section 17-18-1 of the Official Code of Georgia Annotated, relating to duty of certain officials to offer written statement of information to victims of rape or forcible sodomy, is amended as follows:

"17-18-1.

When any employee of the ~~Department of Human Resources~~, Department of Human Services, Department of Health, Department of Behavioral Health, a law enforcement agency, or a court has reason to believe that he or she in the course of official duties is speaking to an adult who is or has been a victim of a violation of Code Section 16-6-1, relating to rape, or Code Section 16-6-2, relating to aggravated sodomy, such employee shall offer or provide such adult a written statement of information for victims of rape or aggravated sodomy. Such written statement shall, at a minimum, include the information set out in Code Section 17-18-2 and may include additional information regarding

1675 resources available to victims of sexual assault. Information for victims of rape or  
1676 aggravated sodomy may be provided in any language."

1677 **SECTION 1-19.**

1678 Code Section 19-3-35.1 of the Official Code of Georgia Annotated, relating to AIDS  
1679 brochures for applicants for a marriage license, is amended by revising subsection (b) as  
1680 follows:

1681 "(b) The ~~Department of Human Resources~~ Department of Health shall prepare a brochure  
1682 describing AIDS, HIV, and the dangers, populations at risk, risk behaviors, and prevention  
1683 measures relating thereto. That department shall also prepare a listing of sites at which  
1684 confidential and anonymous HIV tests are provided without charge. That department shall  
1685 further prepare a form for acknowledging that the brochures and listings have been  
1686 received, as required by subsection (c) of this Code section. The brochures, listings, and  
1687 forms prepared by the Department of Health (formerly known as the Department of Human  
1688 Resources for these purposes) under this subsection shall be prepared and furnished to the  
1689 office of each judge of the probate court no later than October 1, 1988."

1690 **SECTION 1-20.**

1691 Code Section 19-13-32 of the Official Code of Georgia Annotated, relating to the  
1692 membership, terms, filling of vacancies, and officers of the State Commission on Family  
1693 Violence, is amended by revising paragraph (1) of subsection (a) as follows:

1694 "(1) Three ex officio members shall be the director of the Division of Family and Children  
1695 Services of the Department of Human Services, the director of Women's Health Services  
1696 in the ~~division of public health~~ Division of Public Health of the Department of ~~Human~~  
1697 ~~Resources~~ Health, and the Attorney General;"

1698 **SECTION 1-21.**

1699 Code Section 19-15-4 of the Official Code of Georgia Annotated, relating to Georgia Child  
1700 Fatality Review Panel, is amended by revising subsection (c) as follows:

1701 "(c) The panel shall be composed as follows:

- 1702 (1) One district attorney appointed by the Governor;  
1703 (2) One juvenile court judge appointed by the Governor;  
1704 (3) Two citizen members who shall be appointed by the Governor, who are not employed  
1705 by or officers of the state or any political subdivision thereof and one of whom shall come  
1706 from each of the following: (A) a state-wide child abuse prevention organization; and (B)  
1707 a state-wide childhood injury prevention organization;  
1708 (4) One forensic pathologist appointed by the Governor;

- 1709 (5) The chairperson of the Board of Human ~~Resources~~ Services;
- 1710 (6) The director of the Division of Family and Children Services of the Department of
- 1711 Human ~~Resources~~ Services;
- 1712 (7) The director of the Georgia Bureau of Investigation;
- 1713 (8) The chairperson of the Criminal Justice Coordinating Council;
- 1714 (9) A member of the Georgia Senate appointed by the Lieutenant Governor;
- 1715 (10) A member of the Georgia House of Representatives appointed by the Speaker of the
- 1716 House of Representatives;
- 1717 (11) A local law enforcement official appointed by the Governor;
- 1718 (12) A superior court judge appointed by the Governor;
- 1719 (13) A coroner appointed by the Governor;
- 1720 (14) The Child Advocate for the Protection of Children;
- 1721 (15) The director of the Division of Public Health of the Department of ~~Human~~
- 1722 ~~Resources~~ Health; and
- 1723 (16) The ~~director~~ commissioner of the ~~Division of Mental Health, Developmental~~
- 1724 ~~Disabilities, and Addictive Diseases of the Department of Human Resources~~ behavioral
- 1725 health."

#### 1726 SECTION 1-22.

1727 Code Section 20-2-260 of the Official Code of Georgia Annotated, relating to capital outlay

1728 funds generally, is amended by revising paragraphs (5) and (8) of subsection (c) as follows:

1729 "(5) To develop a state-wide needs assessment for purposes of planning and developing

1730 policies, anticipating state-wide needs for educational facilities, and providing assistance

1731 to local school systems in developing educational facilities plans. The state-wide needs

1732 assessment shall be developed from, among other sources, vital statistics published by the

1733 Department of ~~Human Resources~~ Health, census data published by the Bureau of the

1734 Census, local school system educational facilities and real property inventories, educational

1735 facilities surveys, full-time equivalent student projection research, and educational facilities

1736 construction plans; shall reflect circumstances where rapid population growth is caused by

1737 factors not reflected in full-time equivalent student projection research; and shall give

1738 priority to elementary school construction. In addition, the state board shall develop a

1739 consistent, systematic research approach to full-time equivalent student projections which

1740 will be used in the development of needs within each local unit. Projections shall not be

1741 confined to full-time equivalent resident students but shall be based on full-time equivalent

1742 student counts which include full-time equivalent nonresident students, whether or not such

1743 full-time equivalent nonresident students attend school pursuant to a contract between local

1744 school systems. The full-time equivalent projection shall be calculated in accordance with

subsection (m) of this Code section. The survey team will use such projections in determining the improvements needed for the five-year planning period. The state board shall also develop schedules for allowable square footage and cost per square foot and review these schedules annually. The cost estimate for each recommended improvement included in the plan shall be based on these schedules. Any increase in cost or square footage for a project beyond that allowed by state board schedules for such projects shall be the responsibility of the local school system and shall not count toward present or future required local participation. The schedules for allowable square footage and cost per square foot shall be specified in regulations by the State Board of Education;"

"(8) To coordinate construction project reviews with the state fire marshal's office and the Department of ~~Human Resources~~ Health;"

### SECTION 1-23.

Code Section 26-4-192 of the Official Code of Georgia Annotated, relating to the state-wide program for distribution of unused prescription drugs for the benefit of medically indigent persons, is amended as follows:

"26-4-192.

(a) The Georgia State Board of Pharmacy, ~~the Department of Human Resources~~, and the Department of ~~Community~~ Health shall jointly develop and implement a state-wide program consistent with public health and safety standards through which unused prescription drugs, other than prescription drugs defined as controlled substances, may be transferred from health care facilities to pharmacies designated or approved by the Department of ~~Human Resources~~ Health for the purpose of distributing such drugs to residents of this state who are medically indigent persons.

(b) The Georgia State Board of Pharmacy, ~~the Department of Human Resources~~, and the Department of ~~Community~~ Health shall be authorized to develop and implement a pilot program to determine the safest and most beneficial manner of implementing the program prior to the state-wide implementation of the program required in subsection (a) of this Code section.

(c) The Georgia State Board of Pharmacy, in consultation with ~~the Department of Human Resources~~ and the Department of ~~Community~~ Health, shall develop and promulgate rules and regulations to establish procedures necessary to implement the program and pilot program, if applicable, provided for in this Code section. The rules and regulations shall provide, at a minimum:

(1) For an inclusionary formulary for the prescription drugs to be distributed pursuant to the program;

(2) For the protection of the privacy of the individual for whom a prescription drug was originally prescribed;

(3) For the integrity and safe storage and safe transfer of the prescription drugs, which may include, but shall not be limited to, limiting the drugs made available through the program to those that were originally dispensed by unit dose or an individually sealed dose and that remain in intact packaging; provided, however, that the rules and regulations shall authorize the use of any remaining prescription drugs;

(4) For the tracking of and accountability for the prescription drugs; and

(5) For other matters necessary for the implementation of the program.

(d) The state-wide program required by this Code section shall be implemented no later than January 1, 2007, unless a pilot program is implemented pursuant to subsection (b) of this Code section, in which case state-wide implementation shall occur no later than July 1, 2008."

#### SECTION 1-24.

Code Section 31-5-2 of the Official Code of Georgia Annotated, relating to hearings of the Department of Human Resources, is amended as follows:

"31-5-2.

(a) Hearings shall be required ~~with respect to~~ for any and all quasi-judicial actions and in any other proceeding required by this title or the Constitution of Georgia. All such hearings shall be conducted ~~as provided in this Code section~~ in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

~~(b) Where hearing is required or afforded, notice thereof as provided in this Code section shall be given in person or by registered or certified mail or statutory overnight delivery to all interested parties; provided, however, in proceedings where the number of interested parties is so numerous as to make individual notice impracticable, notice shall be given by publication or by such other means reasonably calculated to afford actual notice as may be prescribed by the agency or person conducting such hearing. All notices shall state (1) the time and place of hearing and nature thereof and (2) the matters of fact and law asserted and must be given at least five days before the day set for hearing unless the agency determines that an imminent threat to the public health exists which requires shorter notice.~~

~~(c) All interested parties at such hearings shall have, upon request, compulsory process as provided in Code Section 31-5-4 and shall have the right to adduce evidence and conduct cross-examination of all adverse witnesses. Any member of the department or county boards of health, as the case may be, their authorized officials or agents, or any attorney at law may administer oaths to all witnesses. No witness shall be abused while under~~

~~examination or required to incriminate himself. Where possible, all evidence and proceedings shall be reported.~~

~~(d) The department is authorized and empowered to employ and appoint hearing examiners to conduct hearings, issue compulsory process, administer oaths, and submit their findings and recommendations to the appointing agency, provided, however, that any such examiner shall be a member in good standing of the State Bar of Georgia. A county board of health is authorized and empowered to direct its director or the director's appointee to conduct hearings, issue compulsory process, administer oaths, and submit his findings and recommendations to the county board of health. In both of such cases, the examiner and director or the director's appointee shall make the report available to all interested parties, and such parties are permitted to file written exception thereto prior to final decision thereon."~~

#### **SECTION 1-25.**

Code Section 31-6-21.1 of the Official Code of Georgia Annotated, relating to procedures for rule making by the Department of Community Health, is amended by adding a new subsection to the end of the Code section to read as follows:

"(j) This Code section shall apply only to rules adopted pursuant to this chapter."

#### **SECTION 1-26.**

Code Section 31-6-40 of the Official Code of Georgia Annotated, relating to a certificate of need required for new institutional health services, is amended by revising paragraph (1) of subsection (c) as follows:

"(c)(1) Any person who had a valid exemption granted or approved by the former Health Planning Agency or the former Department of Community Health (now known as the Department of Health) prior to July 1, 2008, shall not be required to obtain a certificate of need in order to continue to offer those previously offered services."

#### **SECTION 1-27.**

Code Section 31-6-48 of the Official Code of Georgia Annotated, relating to the abolishment of prior entities and the transfer of contractual obligations, is amended as follows:

"31-6-48.

The State Health Planning and Development Agency, the State-wide Health Coordinating Council, and the State Health Planning Review Board existing immediately prior to July 1, 1983, are abolished, and their respective successors on and after July 1, 1983, shall be the Health Planning Agency, the Health Policy Council, and the Health Planning Review Board, as established in this chapter, except that on and after July 1, 1991, the Health

1849 Strategies Council shall be the successor to the Health Policy Council, and except that on  
1850 and after July 1, 1999, the Department of Community Health (now known as the  
1851 Department of Health) shall be the successor to the Health Planning Agency, and except  
1852 that on and after July 1, 2008, the Board of Community Health (now known as the State  
1853 Board of Health) shall be the successor to the duties of the Health Strategies Council with  
1854 respect to adoption of the state health plan, and except that on June 30, 2008, the Health  
1855 Planning Review Board is abolished and the terms of all members on such board on such  
1856 date shall automatically terminate and the Certificate of Need Appeal Panel shall be the  
1857 successor to the duties of the Health Planning Review Board on such date. For purposes  
1858 of any existing contract with the federal government, or federal law referring to such  
1859 abolished agency, council, or board, the successor department, council, or board  
1860 established in this chapter or in Chapter 5A 2 of this title shall be deemed to be the  
1861 abolished agency, council, or board and shall succeed to the abolished agency's, council's,  
1862 or board's functions. The State Health Planning and Development Commission is  
1863 abolished."

#### 1864 SECTION 1-28.

1865 Code Section 31-6-49 of the Official Code of Georgia Annotated, relating to transitional  
1866 provisions with respect to the certificate of need program, is amended as follows:

1867 "31-6-49.

1868 All matters transferred to the Health Planning Agency by the previously existing provisions  
1869 of this Code section and that are in effect on June 30, 1999, shall automatically be  
1870 transferred to the Department of Community Health (now known as the Department of  
1871 Health) on July 1, 1999. All matters of the Health Planning Review Board that are pending  
1872 on June 30, 2008, shall automatically be transferred to the Certificate of Need Appeal Panel  
1873 established pursuant to Code Section 31-6-44."

#### 1874 SECTION 1-29.

1875 Code Section 31-7-2.2 of the Official Code of Georgia Annotated, relating to determination  
1876 that patients or residents in an institution, community living arrangement, or treatment  
1877 program are in danger, is amended as follows:

1878 "31-7-2.2.

1879 (a)(1) The commissioner may order the emergency relocation of patients or residents  
1880 from an institution subject to licensure under this chapter, ~~a community living~~  
1881 ~~arrangement subject to licensure under paragraph (16) of subsection (b) and subsection~~  
1882 ~~(c) of Code Section 37-1-20~~; or a drug abuse treatment and education program subject to

licensure under Chapter 5 of Title 26 when the commissioner has determined that the patients or residents are subject to an imminent and substantial danger.

(2) When an order is issued under this subsection, the commissioner shall provide for:

(A) Notice to the patient or resident, his or her next of kin or guardian, and his or her physician of the emergency relocation and the reasons therefor;

(B) Relocation to the nearest appropriate institution, ~~community living arrangement~~, or drug abuse treatment and education program; and

(C) Other protection designed to ensure the welfare and, when possible, the desires of the patient or resident.

(b)(1) The commissioner may order the emergency placement of a monitor in an institution subject to licensure under this chapter, ~~a community living arrangement subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code Section 37-1-20~~, or a drug abuse treatment and education program subject to licensure under Chapter 5 of Title 26 when one or more of the following conditions are present:

(A) The institution, ~~community living arrangement~~, or drug abuse treatment and education program is operating without a permit or a license;

(B) The department has denied application for a permit or a license or has initiated action to revoke the existing permit or license of the institution, ~~community living arrangement~~, or drug abuse treatment and education program;

(C) The institution, ~~community living arrangement~~, or drug abuse treatment and education program is closing or plans to close and adequate arrangements for relocation of the patients or residents have not been made at least 30 days before the date of closure; or

(D) The health, safety, security, rights, or welfare of the patients or residents cannot be adequately assured by the institution, ~~community living arrangement~~, or drug abuse treatment and education program.

(2) A monitor may be placed, pursuant to this subsection, in an institution, ~~community living arrangement~~, or drug abuse treatment and education program for no more than ten days, during which time the monitor shall observe conditions and compliance with any recommended remedial action of the department by the institution, ~~community living arrangement~~, or drug abuse treatment and education program. The monitor shall report to the department. The monitor shall not assume any administrative responsibility within the institution, ~~community living arrangement~~, or drug abuse treatment and education program nor shall the monitor be liable for any actions of the institution, ~~community living arrangement~~, or drug abuse treatment and education program. The costs of placing a monitor in an institution, ~~community living arrangement~~, or drug abuse treatment and education program shall be paid by the institution, ~~community living arrangement~~, or

drug abuse treatment and education program unless the order placing the monitor is determined to be invalid in a contested case proceeding under subsection (d) of this Code section, in which event the costs shall be paid by the state.

(c)(1) The commissioner may order the emergency prohibition of admissions to an institution subject to licensure under this chapter, ~~a community living arrangement subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code Section 37-1-20~~, or program subject to licensure under Chapter 5 of Title 26 when ~~an~~ such institution, ~~community living arrangement~~, or drug abuse treatment and education program has failed to correct a violation of departmental permit rules or regulations within a reasonable period of time, as specified in the department's corrective order, and the violation:

(A) Could jeopardize the health and safety of the residents or patients in the institution; ~~community living arrangement~~, or drug abuse treatment and education program if allowed to remain uncorrected; or

(B) Is a repeat violation over a 12 month period, which is intentional or due to gross negligence.

(2) Admission to an institution, ~~community living arrangement~~, or drug abuse treatment and education program may be suspended until the violation has been corrected or until the department has determined that the institution, ~~community living arrangement~~, or drug abuse treatment and education program has undertaken the action necessary to effect correction of the violation.

(d) The commissioner may issue emergency orders pursuant to this Code section only if authorized by rules and regulations of the department. Unless otherwise provided in the order, an emergency order shall become effective immediately. The department shall hold a preliminary hearing within ten days following a request therefor by any institution; ~~community living arrangement~~, or drug abuse treatment and education program affected by an emergency order. If at the preliminary hearing the order is determined by the department to be invalid, that order shall thereupon become void and of no effect. If at the preliminary hearing the order is determined by the department to be valid, that determination shall constitute a contested case under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and that order shall remain in effect until determined invalid in a proceeding regarding the contested case or until rescinded by the commissioner, whichever is earlier. For purposes of this subsection, an emergency order is valid only if the order is authorized to be issued under this Code section and rules and regulations relating thereto.

(e) The powers provided by this Code section are cumulative of all other powers of the department, board, and commissioner."

**SECTION 1-30.**

Code Section 31-7-12 of the Official Code of Georgia Annotated, relating to regulation of personal care homes, is amended by revising paragraph (1) of subsection (a) as follows:

"(1) 'Personal care home' means any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage. This term shall not include host homes, as defined in paragraph ~~(16)~~(12) of subsection (b) of Code Section ~~37-1-20~~ 49-2-6."

**SECTION 1-31.**

Code Section 31-7-17 of the Official Code of Georgia Annotated, relating to licensure and regulation of hospitals and related institutions transferred to Department of Community Health, is amended as follows:

"31-7-17.

(a) Effective July 1, 2009, all matters relating to the licensure and regulation of hospitals and related institutions pursuant to this article shall be transferred from the Department of Human Resources (now known as the Department of Human Services) to the Department of ~~Community~~ Health.

(b) The Department of ~~Community~~ Health shall succeed to all rules, regulations, policies, procedures, and administrative orders of the Department of Human Resources that are in effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this Code section and shall further succeed to any rights, privileges, entitlements, obligations, and duties of the Department of Human Resources that are in effect on June 30, 2009, which relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this Code section. Such rules, regulations, policies, procedures, and administrative orders shall remain in effect until amended, repealed, superseded, or nullified by the Department of ~~Community~~ Health by proper authority or as otherwise provided by law.

(c) The rights, privileges, entitlements, and duties of parties to contracts, leases, agreements, and other transactions entered into before July 1, 2009, by the Department of Human Resources which relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this Code section shall continue to exist; and none of these rights, privileges, entitlements, and duties are impaired or diminished by reason of the transfer of the functions to the Department of ~~Community~~ Health. In all such instances, the Department of ~~Community~~ Health shall be substituted for the Department of Human

Resources, and the Department of ~~Community~~ Health shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.

(d) All persons employed by the Department of Human Resources in capacities which relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this Code section on June 30, 2009, shall, on July 1, 2009, become employees of the Department of ~~Community~~ Health in similar capacities, as determined by the commissioner of ~~community~~ health. Such employees shall be subject to the employment practices and policies of the Department of ~~Community~~ Health on and after July 1, 2009, but the compensation and benefits of such transferred employees shall not be reduced as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and thereby under the State Merit System of Personnel Administration and who are transferred to the department shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, 2009, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by said employees on June 30, 2009, shall be retained by said employees as employees of the Department of ~~Community~~ Health."

#### SECTION 1-32.

Code Section 31-7-95 of the Official Code of Georgia Annotated, relating to funding of medical education provided by hospital authorities and designated teaching hospitals, is amended by revising subsection (a) as follows:

"(a) As used in this Code section, the term:

(1) 'Designated teaching hospital' means a teaching hospital operated by other than a hospital authority, which hospital agrees to contract with the state to offer or continue to offer a residency program approved by the American Medical Association, which program has at least 50 residents and which hospital operates a 24 hour, seven-day-per-week emergency room open to the public and which hospital files a semiannual statistical report consistent with those filed by other state funded tertiary, neonatal, obstetrical centers with the ~~Family Health Section of the Department of Human Resources~~ Department of Health.

(2) 'Hospital authority' means a hospital authority operating a teaching hospital which offers a residency program approved by the American Medical Association.

(3) 'Resident' means a physician receiving medical education and training through a teaching hospital operated by a hospital authority or designated teaching hospital."

**SECTION 1-33.**

Code Section 31-7-159 of the Official Code of Georgia Annotated, relating to licensure and regulation of home health agencies transferred to Department of Community Health, is amended as follows:

"31-7-159.

(a) Effective July 1, 2009, all matters relating to the licensure and regulation of home health agencies pursuant to this article shall be transferred from the Department of Human Resources (now known as the Department of Human Services) to the Department of Community Health.

(b) The Department of Community Health shall succeed to all rules, regulations, policies, procedures, and administrative orders of the Department of Human Resources that are in effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which relate to the functions transferred to the Department of Community Health pursuant to this Code section and shall further succeed to any rights, privileges, entitlements, obligations, and duties of the Department of Human Resources that are in effect on June 30, 2009, which relate to the functions transferred to the Department of Community Health pursuant to this Code section. Such rules, regulations, policies, procedures, and administrative orders shall remain in effect until amended, repealed, superseded, or nullified by the Department of Community Health by proper authority or as otherwise provided by law.

(c) The rights, privileges, entitlements, and duties of parties to contracts, leases, agreements, and other transactions entered into before July 1, 2009, by the Department of Human Resources which relate to the functions transferred to the Department of Community Health pursuant to this Code section shall continue to exist; and none of these rights, privileges, entitlements, and duties are impaired or diminished by reason of the transfer of the functions to the Department of Community Health. In all such instances, the Department of Community Health shall be substituted for the Department of Human Resources, and the Department of Community Health shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.

(d) All persons employed by the Department of Human Resources in capacities which relate to the functions transferred to the Department of Community Health pursuant to this Code section on June 30, 2009, shall, on July 1, 2009, become employees of the Department of Community Health in similar capacities, as determined by the commissioner of community health. Such employees shall be subject to the employment practices and policies of the Department of Community Health on and after July 1, 2009, but the compensation and benefits of such transferred employees shall not be reduced as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and thereby under the State Merit System of Personnel Administration and who are transferred

2065 to the department shall retain all existing rights under the State Merit System of Personnel  
2066 Administration. Retirement rights of such transferred employees existing under the  
2067 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
2068 2009, shall not be impaired or interrupted by the transfer of such employees and  
2069 membership in any such retirement system shall continue in the same status possessed by  
2070 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
2071 said employees on June 30, 2009, shall be retained by said employees as employees of the  
2072 Department of ~~Community~~ Health."

#### 2073 SECTION 1-34.

2074 Code Section 31-7-265 of the Official Code of Georgia Annotated, relating to facility  
2075 licensing and employee records checks for personal care homes transferred to Department  
2076 of Community Health, is amended as follows:

2077 "31-7-265.

2078 (a) Effective July 1, 2009, all matters relating to facility licensing and employee records  
2079 checks for personal care homes pursuant to this article shall be transferred from the  
2080 Department of Human Resources (now known as the Department of Human Services) to  
2081 the Department of ~~Community~~ Health.

2082 (b) The Department of ~~Community~~ Health shall succeed to all rules, regulations, policies,  
2083 procedures, and administrative orders of the Department of Human Resources that are in  
2084 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
2085 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this  
2086 Code section and shall further succeed to any rights, privileges, entitlements, obligations,  
2087 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
2088 which relate to the functions transferred to the Department of ~~Community~~ Health pursuant  
2089 to this Code section. Such rules, regulations, policies, procedures, and administrative  
2090 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
2091 Department of ~~Community~~ Health by proper authority or as otherwise provided by law.

2092 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
2093 agreements, and other transactions entered into before July 1, 2009, by the Department of  
2094 Human Resources which relate to the functions transferred to the Department of  
2095 ~~Community~~ Health pursuant to this Code section shall continue to exist; and none of these  
2096 rights, privileges, entitlements, and duties are impaired or diminished by reason of the  
2097 transfer of the functions to the Department of ~~Community~~ Health. In all such instances,  
2098 the Department of ~~Community~~ Health shall be substituted for the Department of Human  
2099 Resources, and the Department of ~~Community~~ Health shall succeed to the rights and duties  
2100 under such contracts, leases, agreements, and other transactions.

2101 (d) All persons employed by the Department of Human Resources in capacities which  
2102 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this  
2103 Code section on June 30, 2009, shall, on July 1, 2009, become employees of the  
2104 Department of ~~Community~~ Health in similar capacities, as determined by the commissioner  
2105 of ~~community~~ health. Such employees shall be subject to the employment practices and  
2106 policies of the Department of ~~Community~~ Health on and after July 1, 2009, but the  
2107 compensation and benefits of such transferred employees shall not be reduced as a result  
2108 of such transfer. Employees who are subject to the rules of the State Personnel Board and  
2109 thereby under the State Merit System of Personnel Administration and who are transferred  
2110 to the department shall retain all existing rights under the State Merit System of Personnel  
2111 Administration. Retirement rights of such transferred employees existing under the  
2112 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
2113 2009, shall not be impaired or interrupted by the transfer of such employees and  
2114 membership in any such retirement system shall continue in the same status possessed by  
2115 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
2116 said employees on June 30, 2009, shall be retained by said employees as employees of the  
2117 Department of ~~Community~~ Health."

#### 2118 **SECTION 1-35.**

2119 Code Section 31-7-308 of the Official Code of Georgia Annotated, relating to licensure and  
2120 regulation of private home care providers transferred to Department of Community Health,  
2121 is amended as follows:

2122 "31-7-308.

2123 (a) Effective July 1, 2009, all matters relating to the licensure and regulation of private  
2124 home care providers pursuant to this article shall be transferred from the Department of  
2125 Human Resources (now known as the Department of Human Services) to the Department  
2126 of ~~Community~~ Health.

2127 (b) The Department of ~~Community~~ Health shall succeed to all rules, regulations, policies,  
2128 procedures, and administrative orders of the Department of Human Resources that are in  
2129 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
2130 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this  
2131 Code section and shall further succeed to any rights, privileges, entitlements, obligations,  
2132 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
2133 which relate to the functions transferred to the Department of ~~Community~~ Health pursuant  
2134 to this Code section. Such rules, regulations, policies, procedures, and administrative  
2135 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
2136 Department of ~~Community~~ Health by proper authority or as otherwise provided by law.

(c) The rights, privileges, entitlements, and duties of parties to contracts, leases, agreements, and other transactions entered into before July 1, 2009, by the Department of Human Resources which relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this Code section shall continue to exist; and none of these rights, privileges, entitlements, and duties are impaired or diminished by reason of the transfer of the functions to the Department of ~~Community~~ Health. In all such instances, the Department of ~~Community~~ Health shall be substituted for the Department of Human Resources, and the Department of ~~Community~~ Health shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.

(d) All persons employed by the Department of Human Resources in capacities which relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this Code section on June 30, 2009, shall, on July 1, 2009, become employees of the Department of ~~Community~~ Health in similar capacities, as determined by the commissioner of ~~community~~ health. Such employees shall be subject to the employment practices and policies of the Department of ~~Community~~ Health on and after July 1, 2009, but the compensation and benefits of such transferred employees shall not be reduced as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and thereby under the State Merit System of Personnel Administration and who are transferred to the department shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, 2009, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by said employees on June 30, 2009, shall be retained by said employees as employees of the Department of ~~Community~~ Health."

#### SECTION 1-36.

Code Section 31-8-192 of the Official Code of Georgia Annotated, relating to definitions relative to the "'Health Share' Volunteers in Medicine Act," is amended by revising subparagraph (D) of paragraph (6) as follows:

"(D) Any client or beneficiary of the department, ~~or the Department of Human Resources Services, or the Department of Behavioral Health~~ who voluntarily chooses to participate in a program offered or approved by the department, ~~or the Department of Human Resources Services, or the Department of Behavioral Health~~ and meets the program eligibility guidelines of the department, ~~or the Department of Human Resources Services, or the Department of Behavioral Health~~ whose family income does

2173 not exceed 200 percent of the federal poverty level as defined annually by the federal  
2174 Office of Management and Budget."

2175 **SECTION 1-37.**

2176 Code Section 31-11-2 of the Official Code of Georgia Annotated, relating to definitions  
2177 relative to emergency medical services, is amended by revising paragraphs (3), (5), and (6.1)  
2178 as follows:

2179 "(3) 'Ambulance provider' means an agency or company providing ambulance service  
2180 which is operating under a valid license from the Emergency Health Section of the  
2181 Division of Public Health of the Department of ~~Human Resources~~ Health."

2182 "(5) 'Cardiac technician' means a person who, having been trained and certified as an  
2183 emergency medical technician and having completed additional training in advanced  
2184 cardiac life support techniques in a training course approved by the department, is so  
2185 certified by the Composite State Board of Medical Examiners prior to January 1, 2002,  
2186 or the Department of Human Resources (now known as the Department of Health for  
2187 these purposes) on and after January 1, 2002."

2188 "(6.1) 'Department' means the Department of ~~Human Resources~~ Health."

2189 **SECTION 1-38.**

2190 Code Section 31-11-50 of the Official Code of Georgia Annotated, relating to medical  
2191 advisers relative to emergency medical services, is amended by revising subsection (a) as  
2192 follows:

2193 "(a) To enhance the provision of emergency medical care, each ambulance service shall  
2194 be required to have a medical adviser. The adviser shall be a physician licensed to practice  
2195 medicine in this state and subject to approval by the medical consultant of the Emergency  
2196 Health Section of the Division of ~~Physical Public~~ Public Health of the ~~Department of Human~~  
2197 ~~Resources~~ Department of Health. Ambulance services unable to obtain a medical adviser,  
2198 due to unavailability or refusal of physicians to act as medical advisers, may request the  
2199 district health director or his or her designee to act as medical adviser until the services of  
2200 a physician are available."

2201 **SECTION 1-39.**

2202 Code Section 31-11-53.1 of the Official Code of Georgia Annotated, relating to automated  
2203 external defibrillator program, is amended by revising paragraph (1) of subsection (b) as  
2204 follows:

2205 "(1) It is recommended that all persons who have access to or use an automated external  
2206 defibrillator obtain appropriate training as set forth in the ~~Rules and Regulations~~ rules and

2207 regulations of the Department of Health ~~Human Resources Chapter 290-5-30~~. It is further  
2208 recommended that such training include at a minimum the successful completion of:

2209 (A) A nationally recognized health care provider/professional rescuer level  
2210 cardiopulmonary resuscitation course; and

2211 (B) A department established or approved course which includes demonstrated  
2212 proficiency in the use of an automated external defibrillator;"

2213 **SECTION 1-40.**

2214 Code Section 31-13-25 of the Official Code of Georgia Annotated, relating to rules,  
2215 regulations, agreements, and contracts formerly under the Department of Human Resources  
2216 with respect to radiation control, is amended as follows:

2217 "31-13-25.

2218 All rules and regulations, agreements, contracts, or other instruments which involve  
2219 radioactive materials heretofore under the jurisdiction of the Department of Human  
2220 Resources (now known as the Department of Health for these purposes) will, by operation  
2221 of law, be assumed by the Department of Natural Resources on April 4, 1990."

2222 **SECTION 1-41.**

2223 Code Section 31-15-4 of the Official Code of Georgia Annotated, relating to a cancer control  
2224 officer, is amended as follows:

2225 "31-15-4.

2226 The commissioner shall appoint a cancer control officer. The cancer control officer shall  
2227 be a physician licensed to practice medicine under Chapter 34 of Title 43 and ~~must~~ shall  
2228 be knowledgeable in the field of medicine covered by this chapter. He or she shall  
2229 administer the cancer program for the Division of ~~Physical~~ Public Health of the ~~Department~~  
2230 ~~of Human Resources~~ Department of Health in compliance with this chapter. He or she  
2231 shall be provided an office with clerical and administrative assistance to carry out this  
2232 program."

2233 **SECTION 1-42.**

2234 Code Section 33-21-20.1 of the Official Code of Georgia Annotated, relating to regulation  
2235 of health maintenance organizations by the commissioner of human resources, is amended  
2236 as follows:

2237 "33-21-20.1.

2238 On May 13, 2004, all health maintenance organizations meeting the requirements of  
2239 subsection (b.1) of Code Section 33-21-3 shall not be subject to regulation by the  
2240 commissioner of human resources (now known as the commissioner of health for these

2241 purposes). Upon the Commissioner of Insurance's determination that a health maintenance  
 2242 organization no longer meets the requirements of subsection (b.1) of Code Section 33-21-3,  
 2243 the Commissioner shall immediately notify the commissioner of ~~human resources~~ health;  
 2244 and such health maintenance organization shall be subject to regulation by the  
 2245 commissioner of ~~human resources~~ health until such time as it again meets the requirements  
 2246 of subsection (b.1) of Code Section 33-21-3 as determined by the Commissioner of  
 2247 Insurance."

#### 2248 **SECTION 1-43.**

2249 Code Section 33-21A-10 of the Official Code of Georgia Annotated, relating to new and  
 2250 renewal agreements with care management organizations and health care providers, is  
 2251 amended as follows:

2252 "33-21A-10.

2253 (a) On and after May 13, 2008, the Department of Community Health, now known as the  
 2254 Department of Health, shall include provisions in all new or renewal agreements with a  
 2255 care management organization, which provisions require the care management organization  
 2256 to comply with all provisions of this chapter.

2257 (b) On and after May 13, 2008, a care management organization shall not include any  
 2258 provisions in new or renewal agreements with providers entered into pursuant to the  
 2259 contract between the Department of Community Health (now known as the Department of  
 2260 Health) and the care management organization, which provisions are inconsistent with the  
 2261 provisions of this chapter."

#### 2262 **SECTION 1-44.**

2263 Code Section 33-24-56.3 of the Official Code of Georgia Annotated, relating to colorectal  
 2264 cancer screening and testing, is amended by revising paragraph (1) of subsection (a) as  
 2265 follows:

2266 "(1) 'Health benefit policy' means any individual or group plan, policy, or contract for  
 2267 health care services issued, delivered, issued for delivery, executed, or renewed by an  
 2268 insurer in this state on or after July 1, 2002, including, but not limited to, those contracts  
 2269 executed by the Department of ~~Community~~ Health pursuant to paragraph (1) of  
 2270 subsection ~~(f)~~(d) of Code Section ~~31-5A-4~~ 31-2-4. The term 'health benefit policy' does  
 2271 not include the following limited benefit insurance policies: accident only, CHAMPUS  
 2272 supplement, dental, disability income, fixed indemnity, long-term care, medicare  
 2273 supplement, specified disease, vision, and nonrenewable individual policies written for  
 2274 a period of less than six months."

**SECTION 1-45.**

Code Section 33-24-59.2 of the Official Code of Georgia Annotated, relating to insurance coverage for equipment and self-management training for individuals with diabetes, is amended by revising subsection (b) as follows:

"(b)(1) Diabetes outpatient self-management training and education as provided for in subsection (a) of this Code section shall be provided by a certified, registered, or licensed health care professional with expertise in diabetes.

(2) The office of the Commissioner of Insurance shall promulgate rules and regulations after consultation with the Department of ~~Human Resources~~ Health which conform to the current standards for diabetes outpatient self-management training and educational services established by the American Diabetes Association for purposes of this Code section.

(3) The office of the Commissioner of Insurance shall promulgate rules and regulations, relating to standards of diabetes care, to become effective July 1, 2002, after consultation with the Department of Human Resources (now known as the Department of Health for these purposes), the American Diabetes Association, and the National Institutes of Health. Such rules and regulations shall be adopted in accordance with the provisions of Code Section 33-2-9."

**SECTION 1-46.**

Code Section 33-45-3 of the Official Code of Georgia Annotated, relating to certificates of authority required for operation of continuing care facilities, is amended as follows:

"33-45-3.

Nothing in this title or chapter shall be deemed to authorize any provider of a continuing care facility to transact any insurance business other than that of continuing care insurance or otherwise to engage in any other type of insurance unless it is authorized under a certificate of authority issued by the department under this title. Nothing in this chapter shall be construed so as to interfere with the jurisdiction of ~~the Department of Human Resources~~, the Department of ~~Community~~ Health, or any other regulatory body exercising authority over continuing care providers."

**SECTION 1-47.**

Code Section 43-10A-7 of the Official Code of Georgia Annotated, relating to licensing requirements for professional counselors, social workers, and marriage and family therapists, is amended by revising paragraphs (3) and (12) of subsection (b) as follows:

"(3)(A) Persons who, prior to July 1, 2000, engaged in the practice of a specialty as an employee of any community service board or similar entity created by general law to

provide services to persons with disabilities, as defined in Chapter 2 of Title 37, or any agency or department of the state or any of its political subdivisions, but only when engaged in that practice as an employee of such an agency or department.

(B) Persons who engage in the practice of social work as employees of any community service board or similar entity created by general law to provide services to persons with disabilities, as defined in Chapter 2 of Title 37, or any agency or department of the state or any of its political subdivisions, but only when engaged in that practice as employees of such community service board or similar entity, agency, or department, and persons or entities which contract to provide social work services with any community service board or similar entity or any agency or department of the state or any of its political subdivisions, but such contracting persons and entities shall only be exempt under this subparagraph when engaged in providing social work services pursuant to those contracts and shall only be exempt until January 1, 1996.

(C) Persons who engage in the practice of professional counseling as employees of privately owned correctional facilities, the Department of Corrections, Department of ~~Human Resources~~ Health, Department of Behavioral Health, Department of Human Services, any county board of health, or any community service board or similar entity created by general law to provide services to persons with disabilities, as defined in Chapter 2 of Title 37, but only when engaged in that practice as employees of such privately owned correctional facility, department, board, or entity and persons or entities which contract to provide professional counseling services with such department or county board of health, but such contracting persons and entities shall only be exempt under this subparagraph when engaged in providing professional counseling services pursuant to those contracts and shall only be exempt until January 1, 1996;"

"(12) Persons engaged in the practice of a specialty as an employee of the Division of Family and Children Services of the Department of Human ~~Resources~~ Services but only when engaged in such practice as an employee of that division;"

#### SECTION 1-48.

Code Section 43-27-2 of the Official Code of Georgia Annotated, relating to the creation of the State Board of Nursing Home Administrators, is amended as follows:

"43-27-2.

(a) There is created the State Board of Nursing Home Administrators, which shall consist of 13 members, none of whom may be employees of the United States government or of this state, and the commissioner of human ~~resources~~ services or his or her designee, who shall serve as ex officio member of the board, and the commissioner of ~~community~~ health

or his or her designee, who shall serve as ex officio member of the board. The members of the board shall be appointed by the Governor and confirmed by the Senate, as follows:

(1) One member who is a licensed medical doctor in this state and who is not a nursing home administrator or pecuniarily interested in any nursing home;

(2) One member who is a registered nurse in this state and who is not a nursing home administrator or pecuniarily interested in any nursing home;

(3) One member who is an educator with a graduate degree and specializing in the field of gerontology and who is not a nursing home administrator or pecuniarily interested in any nursing home;

(4) Three members of the public at large who are not nursing home administrators or pecuniarily interested in any nursing home or have any connection with the nursing home industry whatsoever. Two of these three ~~public-at-large~~ public, at-large positions shall be appointed from a list of three persons for each of these two positions submitted by the State Board of Human Resources Health. The Governor is vested with complete discretion in appointing the third member for one of these three ~~public-at-large~~ public, at-large positions;

(5) One member who is a hospital administrator in this state, who is the holder of a master's degree in hospital administration, and who is not a nursing home administrator or pecuniarily interested in any nursing home; and

(6) Six members, at least one of whom shall represent nonproprietary nursing homes, who are licensed nursing home administrators in this state.

(b) The term for all members shall be three years from the date of appointment. A member may be removed as provided in Code Section 43-1-17. All vacancies shall be filled by the Governor for the unexpired terms in accordance with the requirements for appointment to the vacant position."

#### SECTION 1-49.

Code Section 43-27-5 of the Official Code of Georgia Annotated, relating to general powers and duties of the State Board of Nursing Home Administrators, is amended by revising paragraph (4) of subsection (a) as follows:

"(4) To initiate investigations for the purpose of discovering violations by a nursing home administrator of the rules, regulations, or statutes of the Department of ~~Community~~ Health or the Department of Human ~~Resources~~ Services, provided that the board shall investigate those violations only after revocation, limitation, or restriction of participation of the nursing home of which such individual is the administrator in the medical assistance program or the license issued by the Department of ~~Human Resources~~ Health and make written findings as to the causes of the alleged violations;"

**SECTION 1-50.**

Code Section 45-9-1 of the Official Code of Georgia Annotated, relating to general provisions relative to insuring and indemnification of state officers and employees, is amended by revising subsection (c) as follows:

"(c) For the purpose of this article, the term 'agency' shall specifically include, but shall not be limited to, public retirement systems of state-wide application established by the laws of this state, but shall not include counties or municipalities; provided, however, that the employees of community service boards, county departments of health, and county departments of family and children services as well as the members of the boards of said departments shall be considered to be state employees or officials for the purpose of this article. In order to facilitate the administration of liability coverage or other insurance coverages provided the community service boards, ~~county departments of health, and county departments of family and children services,~~ the Department of ~~Human Resources~~ Behavioral Health ~~must~~ shall designate a central office which ~~will~~ shall be responsible for obtaining, submitting, and collecting all underwriting information and insurance premiums requested and assessed by the Department of Administrative Services. In order to facilitate the administration of liability coverage or other insurance coverages provided county departments of family and children services, the Department of Human Services shall designate a central office which shall be responsible for obtaining, submitting, and collecting all underwriting information and insurance premiums requested and assessed by the Department of Administrative Services. In order to facilitate the administration of liability coverage or other insurance coverages provided county departments of health, the Department of Health shall designate a central office which shall be responsible for obtaining, submitting, and collecting all underwriting information and insurance premiums requested and assessed by the Department of Administrative Services."

**SECTION 1-51.**

Code Section 45-9-110 of the Official Code of Georgia Annotated, relating to authorization for consolidation of unemployment compensation claim matters under the commissioner of administrative services, is amended by revising subsection (d) as follows:

"(d) The commissioner of administrative services shall have the authority to provide unemployment compensation benefits insurance to all of the county departments of health, county departments of family and children services, and community service boards. The commissioner of ~~human resources~~ health shall establish a procedure to provide the Department of Administrative Services all of the underwriting information required, including but not limited to payroll data each quarter for the service centers, and shall collect the unemployment premium from ~~such boards and departments~~ county departments

2417 of health and remit the premium to the Department of Administrative Services. The  
 2418 commissioner of human services shall establish a procedure to provide the Department of  
 2419 Administrative Services all of the underwriting information required, including but not  
 2420 limited to payroll data each quarter for the service centers, and shall collect the  
 2421 unemployment premium from county departments of family and children services and  
 2422 remit the premium to the Department of Administrative Services. The commissioner of  
 2423 behavioral health shall establish a procedure to provide the Department of Administrative  
 2424 Services all of the underwriting information required, including but not limited to payroll  
 2425 data each quarter for the service centers, and shall collect the unemployment premium from  
 2426 community service boards and remit the premium to the Department of Administrative  
 2427 Services. All of the county departments of health, county departments of family and  
 2428 children services, and community service boards shall participate in such unemployment  
 2429 compensation benefit insurance program."

#### 2430 **SECTION 1-52.**

2431 Code Section 46-4-154 of the Official Code of Georgia Annotated, relating to notice of  
 2432 election, unbundling, rates, application requirements, and surcharge on interruptibles under  
 2433 the "Natural Gas Competition and Deregulation Act," is amended by revising subsection (e)  
 2434 as follows:

2435 "(e) The commission shall establish a surcharge on all customers receiving interruptible  
 2436 service over the electing distribution company's distribution system sufficient to ensure that  
 2437 such customers will pay an equitable share of the cost of the distribution system over which  
 2438 such customers receive service. The commission is authorized to direct the electing  
 2439 distribution company or the marketers to collect such surcharge directly from the  
 2440 customers. Such surcharge shall be paid promptly upon receipt into the universal service  
 2441 fund. This surcharge shall not be applied to any hospital that has a medicare and Medicaid  
 2442 payor mix of at least 30 percent and has uncompensated writeoffs for the provision of  
 2443 charity, indigent, and free health care services of not less than 5 percent of such hospital's  
 2444 annual operating expenses based on the annual hospital surveys by ~~the Division of Health~~  
 2445 ~~Planning~~ of the Department of Community Health. This surcharge shall not be applied to  
 2446 any institution or property enumerated in Code Section 50-16-3, or administered or  
 2447 regulated under authority granted by Code Section 42-2-5 or 49-4A-6 or by Chapter 9 of  
 2448 Title 50."

**SECTION 1-53.**

Code Section 49-4-142 of the Official Code of Georgia Annotated, relating to adoption and administration of a state plan for medical assistance by the Department of Community Health, is amended by revising subsection (b) as follows:

"(b) The department shall, not later than June 1, 1986, implement a modification of the state plan for medical assistance or any affected rules or regulations of the department, which modification will allow supplementation by relatives or other persons for a private room or private sitter or both for a recipient of medical assistance in a nursing home. ~~The Department of Human Resources shall likewise modify any affected rules and regulations of the Department of Human Resources.~~ The modification to the plan or to any affected rules and regulations shall be effective unless and until federal authorities rule that such modification is out of compliance with federal regulations. Such modification of the state plan for medical assistance or rules and regulations:

(1) Shall provide that a provider of nursing home services in either a skilled care facility or an intermediate care facility shall be obligated to provide a recipient of medical assistance only semiprivate accommodations which meet the other requirements of appropriate regulations;

(2) Shall provide that at no time can more than 10 percent of a skilled care or intermediate care facility's rooms be used for Medicaid recipients for whom a private room supplementation has been made;

(3) Shall provide that payments made by relatives or other persons to a provider of medical assistance for the specific stated purpose of paying the additional costs for a private room or private sitter or both for a recipient of medical assistance in a skilled care facility or intermediate care facility shall not be considered as income when determining the amount of patient liability toward vendor payments; provided, however, that the department's entitlement to payments made by legally liable third parties shall not be diminished by this modification of the state plan;

(4) Shall provide that no provider of medical assistance shall discriminate against a recipient of medical assistance who does not have a relative or other person who is willing and able to provide supplementation; but the provision of a private room or private sitter to a recipient when supplementation is provided shall not constitute discrimination against other recipients;

(5) Shall provide that no recipient who is transferred to or admitted to a private room because of a shortage of beds in semiprivate rooms shall be discharged because the recipient does not have a relative or other person who is willing and able to provide supplementation; and

2485 (6) May provide that the rate charged by the provider of medical assistance to the relative  
 2486 or other person providing supplementation for a private room for a recipient shall not  
 2487 exceed the difference between the maximum rate charged by the provider for a private  
 2488 room to or for a private pay patient and the amount which the provider receives or will  
 2489 receive from the department as reimbursement for otherwise providing for the recipient's  
 2490 care in a semiprivate room."

2491 **SECTION 1-54.**

2492 Code Section 49-4-153 of the Official Code of Georgia Annotated, relating to administrative  
 2493 hearings and appeals under Medicaid, is amended by revising subsection (d) as follows:

2494 "(d) All contested cases involving the imposition of a remedial or punitive measure against  
 2495 a nursing facility by the Department of ~~Community~~ Health shall be conducted in the  
 2496 manner provided for in subsection (l) of Code Section ~~31-2-6~~ 31-2-11, but only if such  
 2497 remedial or punitive measure is based upon findings made by the Department of ~~Human~~  
 2498 ~~Resources-Health~~ in its capacity as the state survey agency for the Georgia Medicaid  
 2499 program."

2500

2501 **SECTION 1-55.**

2502 Code Section 49-4-154 of the Official Code of Georgia Annotated, relating to powers and  
 2503 duties retained by the Department of Human Resources with respect to Medicaid, is amended  
 2504 as follows:

2505 "49-4-154.

2506 (a) The status, position, and rights of persons transferred from the Department of Human  
 2507 Resources (now known as the Department of Health for these purposes) to the Department  
 2508 of Medical Assistance pursuant to Ga. L. 1977, p. 384 shall not be affected by the transfer,  
 2509 in and of itself; and such persons shall retain, inter alia, all rights of rank or grade; rights  
 2510 to vacation, sick pay, and leave; rights under any retirement plan; and any other rights  
 2511 under any law or administrative policy.

2512 (b) The Department of Human Resources (now known as the Department of Health for  
 2513 these purposes) shall retain, in accordance with terms of the state plan, the functions, and  
 2514 all tangible things and employees relating thereto, of:

2515 (1) Establishing and maintaining certain standards for certain institutions and agencies  
 2516 seeking to become or remain providers and shall finally determine and certify whether  
 2517 such institutions and agencies meet such standards;

2518 (2) Determining and certifying the eligibility of certain applicants for and recipients of  
 2519 medical assistance; and

2520 (3) Prescribing regulations to require that applicants for medical assistance be given clear  
2521 and easily understandable notice that all books, papers, records, and memoranda of the  
2522 provider relating to the provision of medical assistance to the applicant will be made  
2523 available, upon request, to the commissioner of medical assistance or his representative  
2524 and that, by accepting medical assistance, the applicant thereby consents to the providing  
2525 of such books, papers, records, and memoranda to the commissioner of medical  
2526 assistance or his representative."

2527 **SECTION 1-56.**

2528 Code Section 49-4-155 of the Official Code of Georgia Annotated, relating to the  
2529 Department of Community Health succeeding to existing rules, regulations, policies,  
2530 procedures, and administrative orders with respect to Medicaid, is amended as follows:

2531 "49-4-155.

2532 The Department of Community Health (now known as the Department of Health) shall  
2533 succeed to all the rules, regulations, policies, procedures, and administrative orders of the  
2534 Department of Human Resources (now known as the Department of Human Services)  
2535 transferred to the Department of Medical Assistance pursuant to the previously existing  
2536 provisions of this Code section and that are in effect on June 30, 1999, and shall further  
2537 succeed to any rights, privileges, entitlements, obligations, and duties of the Department  
2538 of Human Resources (now known as the Department of Human Services) that are in effect  
2539 on June 30, 1999, to which the Department of Medical Assistance succeeded pursuant to  
2540 the previously existing provisions of Code Section 49-4-156."

2541 **SECTION 1-57.**

2542 Code Section 50-13-42 of the Official Code of Georgia Annotated, relating to applicability  
2543 of the "Georgia Administrative Procedure Act," is amended by revising subsection (a) as  
2544 follows:

2545 "(a) In addition to those agencies expressly exempted from the operation of this chapter  
2546 under paragraph (1) of Code Section 50-13-2, this article shall not apply to the  
2547 Commissioner of Agriculture, the Public Service Commission, the ~~Health Planning Review~~  
2548 ~~Board~~ Certificate of Need Appeal Panel, or the Department of ~~Community~~ Health or to the  
2549 Department of Labor with respect to unemployment insurance benefit hearings conducted  
2550 under the authority of Chapter 8 of Title 34. Such exclusion does not prohibit such office  
2551 or agencies from contracting with the Office of State Administrative Hearings on a  
2552 case-by-case basis."

**SECTION 1-58.**

Code Section 50-16-3 of the Official Code of Georgia Annotated, relating to property of state boards and departments, is amended by revising paragraph (2) as follows:

"(2) The several institutions operated by the Department of Human ~~Resources~~ Services, the Department of Health, or the Department of Behavioral Health, including all real and personal property belonging to the several institutions or used in connection therewith, and all other property conveyed to ~~the~~ any such department for the use of any of the institutions or conveyed to any of the boards of trustees of which ~~the~~ such department is the successor or to any of the institutions under its control;"

**PART II**

Department of Human Services.

**SECTION 2-1.**

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended by revising Chapters 1 and 2, relating to general provisions on social services and the Department of Human Resources, respectively, as follows:

**"CHAPTER 1**

49-1-1.

As used in this title, the term:

(1) 'Board' means the Board of Human ~~Resources~~ Services.

(2) 'Commissioner' means the commissioner of human ~~resources~~ services.

(3) 'County board' means a county or district board of family and children services.

(4) 'County department' means a county or district department of family and children services.

(5) 'County director' means the director of a county or district department of family and children services.

(6) 'Department' means the Department of Human ~~Resources~~ Services.

49-1-2.

All rules and regulations made by the Department of Human ~~Resources~~ Services shall be binding on the counties and shall be complied with by the respective county departments.

49-1-3.

~~(a) Notwithstanding any other provisions of law, the Governor shall have the power by executive order to direct and implement such internal organization of the Department of Human Resources as he may determine necessary to improve the management and administration of the functions vested in the department, including the power to allocate within such organization the executive authority described in Code Section 49-2-1 with respect to any or any grouping of the functions of the department. For these purposes, the Governor shall have the power by executive order to redefine the department's substate structure and to direct the establishment of district health and welfare organizations, as respectively described and with such powers and duties as set forth in Code Sections 31-3-15 and 49-3-1. The district director of a health district shall be a licensed physician. The district director and other executive staff of district health and welfare organizations shall hereafter be appointed by the department, provided that the department shall not appoint as a director of any such organization any person whose appointment is not approved by a majority of the respective district board concerned in a meeting of such board called for that purpose.~~

~~(b) Any other provisions of this Code section to the contrary notwithstanding, any such reorganization plan shall provide for a county department of family and children services, a county board of family and children services, and a county director of family and children services in each county of this state. The county director shall be the executive officer of the county department who shall be responsible for operations and personnel. In addition to such other powers and authorities which may be delegated to county departments of family and children services, each county board and director of family and children services shall have the same powers, duties, and bond requirements as provided in Code Sections 49-3-2 through 49-3-5.~~

~~(c) Notwithstanding any other provision of this Code section, the Governor shall not have the power by executive order to abolish any county board.~~

~~(d) The Governor's power under this Code section shall expire on December 31, 1976, but the organization accomplished by executive order hereunder shall continue until altered in the manner provided by law. Reserved.~~

49-1-4.

No individual, supervisor, or member of the Board of Human ~~Resources~~ Services or the county or district boards of family and children services having to do with the administration of this title shall be authorized or permitted, directly or indirectly, to sell supplies or other items of any kind or character to any of the institutions to be benefited by this title.

49-1-5.

(a) In order that the public welfare laws of this state may be better enforced, the Governor is authorized and empowered to suspend any member of any county board, any county director, or any employee or official of the department whenever he or she shall find that good cause for such suspension exists. Such suspension shall be by executive order of the Governor, which shall state the reason therefor. A copy of such order of suspension shall be sent to the person so suspended within five days after it is issued, by registered or certified mail or statutory overnight delivery, return receipt requested, together with a notice from the Governor or his or her executive secretary that the suspended person may be heard before the Governor at such time as may be stated in the notice, which hearing shall be not less than ten nor more than 20 days from the date of the notice. Upon such hearing, if the Governor shall find that good cause for the removal of the person so suspended exists, he or she is authorized and empowered to remove such member of any county board, any county director, or any employee or official in the department; whereupon, such person's tenure of office or employment shall terminate, subject to the right of appeal granted to any employee under the State Merit System of Personnel Administration by Chapter 20 of Title 45, and the vacancy shall be filled as provided by law. If the Governor shall find that good cause for the removal of such person does not exist, he or she shall, by appropriate executive order, restore him or her to duty.

(b) In addition to removal by the Governor as specified in subsection (a) of this Code section, the director of the Division of Family and Children Services may terminate the employment of any county director or district director subject to any right of appeal such director may have under the State Merit System of Personnel Administration by Chapter 20 of Title 45, and the vacancy shall be filled as provided by law.

49-1-6.

(a) Any charitable or nonprofit corporation which has been granted a charter or articles of incorporation under the laws of this state may transfer all or a part of its assets to the department upon such terms as may be agreed upon between such corporation and the department, provided such corporation shall first have obtained authority to make such transfer in accordance with this Code section.

(b) Any such corporation may apply for authority to make such transfer by filing its petition with the superior court of the county in which such corporation has its principal office. Such application shall set forth the assets which the corporation desires to transfer to the department and the terms upon which it desires to transfer these assets.

(c) Such corporation, once a week for four weeks prior to the filing of such petition, shall publish notice in the newspaper of the county in which is located the principal office of the

corporation, such newspaper being the newspaper in which notices of sheriff's sales are advertised. The notice shall set forth the date, time, and place when such application will be presented, the court to which it will be presented, and the assets which such corporation desires to transfer to the department.

(d) After a hearing, the court shall be authorized to grant the application and permit a transfer of the assets of the applicant upon terms as set out in the application or modified as the court may deem advisable, if the court considers this in the public interest; or the court may deny the application if the court deems such denial to be in the public interest. Where such corporation makes a transfer of all of its right, title, and interest in any of its assets to the department and such transfer is made pursuant to the authority of the court obtained in the manner provided for in this Code section, such transfer shall be conclusively deemed to be a proper and legal transfer.

(e) Should such corporation desire to transfer all of its assets to the department, the court to which such application is presented may include in its order a provision that upon the transfer by such corporation of all of its assets to the department and upon compliance with Chapter 3 of Title 14, the charter or articles of incorporation of such corporation shall stand surrendered and the corporation dissolved.

(f) Nothing contained in this Code section shall be considered as authorizing the department to accept a transfer of assets upon terms which would require the use of them by the department in a manner not authorized by law.

~~49-1-7.~~

~~The department is authorized to purchase land or lands adjacent to or near lands now under the control of the department where, in the opinion of the department, the land is needed for the benefit of one of the institutions under its control and management, to pay for such land out of any funds which may be available for such purpose, and to take title to land so purchased in the name of the State of Georgia for the use of the department.~~

~~49-1-8.~~

~~(a) The department shall sell, to the best advantage, all surplus products of the Central State Hospital or other institutions under the control and supervision of the department and shall apply the proceeds thereof to the maintenance of the institution from which such surplus products are received. Should any surplus funds arise from this source, they shall be paid into the state treasury annually, and the department shall, at the end of each quarter, make a detailed report of all such transactions to the Governor.~~

~~(b) It is not the intention of this Code section to encourage competition in any way by the state, its institutions, agencies, departments or branches, or other subdivisions with the~~

2689 individual, private farmers of this state, or others, in the production and sale of agricultural  
2690 or industrial commodities or products in due course of commerce.

2691 ~~49-1-9~~ 49-1-7.

2692 (a) The General Assembly finds that it is in the best interest of the state to provide for  
2693 programs for home delivered meals, transportation services for the elderly, and preschool  
2694 children with special needs, including but not limited to disabled children, troubled  
2695 children, school readiness programs, and other similar needs for the benefit of the citizens  
2696 of Georgia. In addition to and as a supplement to traditional financing mechanisms for  
2697 such programs, it is the policy of this state to enable and encourage citizens voluntarily to  
2698 support such programs.

2699 (b) To support programs for home delivered meals, transportation services for the elderly,  
2700 and preschool children with special needs which programs have been established or  
2701 approved by the department or the Department of Health, the department may, without  
2702 limitation, promote and solicit voluntary contributions through the income tax return  
2703 contribution mechanism established in subsection (f) of this Code section, through offers  
2704 to match contributions by any person with moneys appropriated or contributed to the  
2705 department or the Department of Health for such programs, or through any fund raising or  
2706 other promotional techniques deemed appropriate by the department or the Department of  
2707 Health.

2708 (c) There is established a special fund to be known as the 'Home Delivered Meals,  
2709 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund.'  
2710 This fund shall consist of all moneys contributed under subsection (b) of this Code section,  
2711 all moneys transferred to the department under subsection (f) of this Code section, and any  
2712 other moneys contributed to this fund or to the home delivered meals, transportation  
2713 services for the elderly, or preschool children with special needs programs of the  
2714 department or the Department of Health and all interest thereon. All balances in the fund  
2715 shall be deposited in an interest-bearing account identifying the fund and shall be carried  
2716 forward each year so that no part thereof may be deposited in the general treasury. The  
2717 fund shall be administered and the moneys held in the fund shall be expended by the  
2718 department through the ~~Office~~ Division of Aging Services in furtherance of home delivered  
2719 meals and transportation services to the elderly programs and by the ~~department~~  
2720 Department of Health in furtherance of preschool children with special needs programs.

2721 (d) Following the transmittal of contributions to the department for deposit in the fund  
2722 pursuant to subsection (f) of this Code section, the expenditure of moneys in the fund shall  
2723 be allocated as follows:

2724 (1) Fifty percent of the contributions to the fund shall be used for home delivered meals  
2725 and transportation services to the elderly programs; and

2726 (2) Fifty percent of the contributions to the fund shall be transferred to the Department  
2727 of Health to be used for preschool children with special needs programs.

2728 (e) Contributions to the fund shall be deemed supplemental to and shall in no way supplant  
2729 funding that would otherwise be appropriated for these purposes. Contributions shall only  
2730 be used for benefits and services and shall not be used for personnel or administrative  
2731 positions. The department and the Department of Health shall each prepare, by February  
2732 1 of each year, an accounting of the funds received and expended from the fund and a  
2733 review and evaluation of all expended moneys of the fund. The ~~report~~ reports shall be  
2734 made available to the Governor, the Lieutenant Governor, the Speaker of the House of  
2735 Representatives, to the members of the Board of Human ~~Resources~~ Services, and, upon  
2736 request, to members of the public.

2737 (f)(1) Unless an earlier date is deemed feasible and established by the Governor, each  
2738 Georgia income tax return form for taxable years beginning on or after January 1, 1993,  
2739 shall contain appropriate language, to be determined by the state revenue commissioner,  
2740 offering the taxpayer the opportunity to contribute to the Home Delivered Meals,  
2741 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund  
2742 established in subsection (c) of this Code section by either donating all or any part of any  
2743 tax refund due, by authorizing a reduction in the refund check otherwise payable, or by  
2744 contributing any amount over and above any amount of tax owed by adding that amount  
2745 to the taxpayer's payment. The instructions accompanying the income tax return form  
2746 shall contain a description of the purposes for which this fund was established and the  
2747 intended use of moneys received from the contributions. Each taxpayer required to file  
2748 a state income tax return who desires to contribute to such fund may designate such  
2749 contribution as provided in this Code section on the appropriate income tax return form.

2750 (2) The Department of Revenue shall determine annually the total amount so contributed,  
2751 shall withhold therefrom a reasonable amount for administering this voluntary  
2752 contribution program, and shall transmit the balance to the department for deposit in the  
2753 fund established in subsection (c) of this Code section; provided, however, the amount  
2754 retained for administrative costs, including implementation costs, shall not exceed  
2755 \$50,000.00 per year. If, in any tax year, the administrative costs of the Department of  
2756 Revenue for collecting contributions pursuant to this Code section exceed the sum of  
2757 such contributions, the administrative costs which the Department of Revenue is  
2758 authorized to withhold from such contributions shall not exceed the sum of such  
2759 contributions.

## CHAPTER 2

## ARTICLE 1

49-2-1.

(a) There is created a Department of Human ~~Resources~~ Services. The powers, functions, and duties of the Department of Human Resources as they existed on June 30, 2009, except for those relating to the Division of Mental Health, Developmental Disabilities, and Addictive Diseases, the Division of Public Health, and the Office of Regulatory Services, unless specifically transferred or reassigned to the Department of Health or the Department of Behavioral Health, are transferred to the Department of Human Services effective July 1, 2009, and the Department of Human Resources shall be reconstituted as the Department of Human Services effective July 1, 2009.

(b) There is ~~also~~ created the position of commissioner of human ~~resources~~ services. The commissioner shall be the chief administrative officer of the department and be both appointed and removed by the board, subject to the approval of the Governor. Subject to the general policy established by the board, the commissioner shall supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department.

49-2-2.

(a) There is created a Board of Human ~~Resources~~ Services, as of July 1, 2009, which shall establish the general policy to be followed by the Department of Human ~~Resources~~ Services created by Code Section 49-2-1. The powers, functions, and duties of the Board of Human Resources as they existed on June 30, 2009, except for those relating to the Division of Mental Health, Developmental Disabilities, and Addictive Diseases, the Division of Public Health, and the Office of Regulatory Services, unless specifically transferred or reassigned to the Department of Health or the Department of Behavioral Health, are transferred to the Board of Human Services effective July 1, 2009, and the Board of Human Resources as it existed on June 30, 2009, shall be abolished effective July 1, 2009. The board shall consist of ~~one member from each congressional district in the state and four at-large~~ nine members appointed by the Governor and confirmed by the Senate. ~~For this purpose, the congressional districts used shall be those specified in Code Section 21-1-2, as amended by Act No. 2EX11 of the second extraordinary 2001 session of the General Assembly and as thereafter amended by law. Seven members of the board shall be engaged professionally in rendering health services, and at least five of these seven members shall be licensed to practice medicine pursuant to Chapter 34 of Title 43. In appointing members to the board, the Governor shall take into account to the extent practicable all areas and functions encompassed by the department.~~

2795 (b) The Governor shall designate the initial terms of the members of the board as follows:  
2796 three members shall be appointed for one year; three members shall be appointed for two  
2797 years; and three members shall be appointed for three years; ~~three members shall be~~  
2798 ~~appointed for four years, and the remaining members shall be appointed for five years.~~  
2799 Thereafter, all succeeding appointments shall be for ~~five-year~~ three-year terms from the  
2800 expiration of the previous term.

2801 (c) Vacancies in office shall be filled by appointment by the Governor in the same manner  
2802 as the appointment to the position on the board which becomes vacant, and the appointment  
2803 shall be submitted to the Senate for confirmation at the next session of the General  
2804 Assembly. An appointment to fill a vacancy, other than by expiration of a term of office,  
2805 shall be for the balance of the unexpired term.

2806 (d) Members of the board may be removed from office under the same conditions for  
2807 removal from office of members of professional licensing boards provided in Code Section  
2808 43-1-17.

2809 ~~(d)~~(e) There shall be a ~~chairman~~ chairperson of the board, elected by and from the  
2810 membership of the board, who shall be the presiding officer of the board.

2811 ~~(e) Those members engaged in rendering health services shall comprise no more than~~  
2812 ~~seven members of the total membership of the board.~~

2813 (f) The members of the board shall receive per diem and expenses as shall be set and  
2814 approved by the Office of Planning and Budget and in conformance with rates and  
2815 allowances set for members of other state boards.

2816 49-2-2.1.

2817 (a) The Department of Human Services shall succeed to all rules, regulations, policies,  
2818 procedures, and administrative orders of the Department of Human Resources that are in  
2819 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
2820 relate to the functions transferred to the Department of Human Services pursuant to Code  
2821 Section 49-2-1 and shall further succeed to any rights, privileges, entitlements, obligations,  
2822 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
2823 which relate to the functions transferred to the Department of Human Services pursuant to  
2824 Code Section 49-2-1. Such rules, regulations, policies, procedures, and administrative  
2825 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
2826 Department of Human Services by proper authority or as otherwise provided by law.

2827 (b) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
2828 agreements, and other transactions entered into before July 1, 2009, by the Department of  
2829 Human Resources which relate to the functions transferred to the Department of Human  
2830 Services pursuant to Code Section 49-2-1 shall continue to exist; and none of these rights,

2831 privileges, entitlements, and duties are impaired or diminished by reason of the transfer of  
2832 the functions to the Department of Human Services. In all such instances, the Department  
2833 of Human Services shall be substituted for the Department of Human Resources, and the  
2834 Department of Human Services shall succeed to the rights and duties under such contracts,  
2835 leases, agreements, and other transactions.

2836 (c) All persons employed by the Department of Human Resources in capacities which  
2837 relate to the functions transferred to the Department of Human Services pursuant to Code  
2838 Section 49-2-1 on June 30, 2009, shall, on July 1, 2009, become employees of the  
2839 Department of Human Services in similar capacities, as determined by the commissioner  
2840 of human services. Such employees shall be subject to the employment practices and  
2841 policies of the Department of Human Services on and after July 1, 2009, but the  
2842 compensation and benefits of such transferred employees shall not be reduced as a result  
2843 of such transfer. Employees who are subject to the rules of the State Personnel Board and  
2844 thereby under the State Merit System of Personnel Administration and who are transferred  
2845 to the department shall retain all existing rights under the State Merit System of Personnel  
2846 Administration. Retirement rights of such transferred employees existing under the  
2847 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
2848 2009, shall not be impaired or interrupted by the transfer of such employees and  
2849 membership in any such retirement system shall continue in the same status possessed by  
2850 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
2851 said employees on June 30, 2009, shall be retained by said employees as employees of the  
2852 Department of Human Services.

2853 (d) On July 1, 2009, the Department of Human Services shall receive custody of the state  
2854 owned real property in the custody of the Department of Human Resources on June 30,  
2855 2009, and which pertains to the functions transferred to the Department of Human Services  
2856 pursuant to Code Section 49-2-1.

2857 49-2-3.

2858 (a) ~~Reserved.~~

2859 ~~(b)~~ The policy-making functions of the State Board for Children and Youth, contained in  
2860 Ga. L. 1963, p. 81, are vested in the Board of Human ~~Resources~~ Services.

2861 ~~(c)~~(b) The policy-making functions of the Commission on Aging, created in Ga. L. 1962,  
2862 p. 604, are vested in the Board of Human ~~Resources~~ Services.

2863 49-2-4.

2864 There shall be created in the department such divisions as may be found necessary for its  
2865 effective operation. The commissioner shall have the power to allocate and reallocate  
2866 functions among the divisions within the department.

2867 49-2-5.

2868 The department is declared to be an institution of the state for which the powers of taxation  
2869 over the whole state may be exercised, and the department is empowered and authorized  
2870 to administer, expend, and disburse funds appropriated to it and allocated to it by the  
2871 General Assembly, the respective counties of the state, and the United States, through its  
2872 appropriate agencies and instrumentalities for the purpose of distributing old-age benefits  
2873 and all other benefits as provided in this title.

2874 49-2-6.

2875 (a) The department shall administer or supervise all county departments of the state as  
2876 provided in Chapter 3 of this title.

2877 (b) The department shall:

2878 (1) Administer or supervise:

2879 (A) All categories of public assistance established under Code Section 49-4-3;

2880 (B) The operation of state charitable and eleemosynary institutions;

2881 (C) Agencies and institutions caring for dependent or mentally or physically disabled  
2882 or aged adults; and

2883 (D) Such other welfare activities or services as may be vested in it;

2884 ~~(2) Cooperate in the supervision of all correctional activities, including the operation of~~  
2885 ~~all the penal and correctional institutions of the state, together with parole, supervising~~  
2886 ~~of probation services, segregation of first offenders, and the inspection of local jails;~~

2887 ~~(3)~~ Provide services to county governments, including the organization and supervision  
2888 of county departments for the effective administration of welfare functions and the  
2889 compilation of statistics and necessary information relative to public welfare problems  
2890 throughout the state;

2891 ~~(4)~~(3) Prescribe qualifications and salary standards for welfare personnel in state and  
2892 county departments, subject to Chapter 20 of Title 45;

2893 ~~(5)~~(4) Assist other state and federal departments, agencies, and institutions, when so  
2894 requested, by performing services in conformity with the purposes of this title;

2895 ~~(6)~~(5) Act as the agent of the federal government in welfare matters of mutual concern  
2896 in conformity with this title and the administration of any federal funds granted to the  
2897 state to aid in the furtherance of any functions of the department;

2898 ~~(7)~~(6) Under rules and regulations prescribed by the board, designate county and district  
 2899 departments to serve as agents in the performance of all state welfare activities in the  
 2900 counties or districts;

2901 ~~(8)~~(7) Have the right to designate private institutions as state institutions; to contract with  
 2902 such private institutions for such activities, in carrying out this title, as the department  
 2903 may deem necessary from time to time; and to exercise such supervision and cooperation  
 2904 in the operation of such designated private institutions as the department may deem  
 2905 necessary;

2906 ~~(9)~~(8) Have the right to accept and execute gifts or donations for welfare purposes, as  
 2907 may be prescribed by the donors thereof;

2908 ~~(10)~~(9) Have authority to delegate in whole or in part the operation of any institution or  
 2909 other activity of the department to any other appropriate department or agency of the  
 2910 state, county, or municipal governments; and to contract with and cooperate with such  
 2911 departments or subdivisions in any manner proper for carrying out the purposes of this  
 2912 title;

2913 ~~(11)~~ Make provision for meeting the cost of hospital care of persons eligible for public  
 2914 assistance to the extent that federal matching funds are available for such expenditures  
 2915 for hospital care. To accomplish this purpose, the department is authorized to pay from  
 2916 funds appropriated for the purposes of this title the amount required under this paragraph  
 2917 into a trust fund account which shall be available for disbursement for the cost of hospital  
 2918 care of public assistance recipients. The commissioner, subject to the approval of the  
 2919 Office of Planning and Budget, on the basis of the funds appropriated in any year, shall  
 2920 estimate the scope of hospital care available to public assistance recipients and the  
 2921 approximate per capita cost of such care. Monthly payments into the trust fund for  
 2922 hospital care shall be made on behalf of each public assistance recipient and such  
 2923 payments shall be deemed encumbered for assistance payable. Ledger accounts  
 2924 reflecting payments into and out of the hospital care fund shall be maintained for each of  
 2925 the categories of public assistance established under Code Section 49-4-3. The balance  
 2926 of state funds in such trust fund for the payment of hospital costs in an amount not to  
 2927 exceed the amount of federal funds held in the trust fund by the department available for  
 2928 expenditure under this paragraph shall be deemed encumbered and held in trust for the  
 2929 payment of the costs of hospital care and shall be rebudgeted for this purpose on each  
 2930 quarterly budget required under the laws governing the expenditure of state funds. The  
 2931 state auditor shall audit the funds in the trust fund established under this paragraph in the  
 2932 same manner that any other funds disbursed by the department are audited; and

2933 ~~(12)~~(10) Administer such programs and provide such services as may be appropriate and  
 2934 necessary to strengthen family life and help needy individuals attain the maximum

economic and personal independence of which they are capable, including services to applicants and recipients of old-age assistance to help them attain self-care, provided that the costs incurred by the county departments in administering this Code section in conjunction with the public assistance programs administered by the department shall be deemed to be administrative expenses;

(11) Classify and license community living arrangements in accordance with the rules and regulations promulgated by the department for the licensing and enforcement of licensing requirements for persons whose services are financially supported, in whole or in part, by funds authorized through the department. To be eligible for licensing as a community living arrangement, the residence and services provided must be integrated within the local community. All community living arrangements licensed by the department shall be subject to the provisions of Code Sections 49-2-17 and 49-2-18. No person, business entity, corporation, or association, whether operated for profit or not for profit, may operate a community living arrangement without first obtaining a license or provisional license from the department. A license issued pursuant to this paragraph is not assignable or transferable. As used in this paragraph, the term 'community living arrangement' means any residence, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food, one or more personal services, supports, care, or treatment exclusively for two or more persons who are not related to the owner or administrator of the residence by blood or marriage; and

(12) Classify host homes for persons whose services are financially supported, in whole or in part, by funds authorized through the department and provide guidelines for and oversight of host homes, which may include, but not be limited to, criteria to become a host home, requirements relating to physical plants and supports, placement procedures, and ongoing oversight requirements. A host home shall be occupied by the owner or lessee, who shall not be an employee of the same community provider which provides the host home services by contract with the department. The department shall approve and enter into agreements with community providers which, in turn, contract with host homes. The occupant owner or lessee shall not be the guardian of any person served or of their property nor the agent in such person's advance directive for health care. The placement determination for each person placed in a host home shall be made according to such person's choice, as well as the individual needs of such person in accordance with the requirements of Code Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person. As used in this paragraph, the term 'host home' means a private residence in a residential area in which the occupant owner or lessee provides housing and provides or arranges for the provision of food, one or more personal services, supports, care, or

2972 treatment exclusively for one or two persons who are not related to the occupant owner  
2973 or lessee by blood or marriage.

2974 49-2-7.

2975 (a) The functions, duties, and authority of the Board of Public Welfare, established by Ga.  
2976 L. 1919, p. 222, as amended, as transferred and vested in the Board of Control of  
2977 Eleemosynary Institutions by Ga. L. 1931, p. 7, Section 44A, are vested in the Department  
2978 of Human ~~Resources~~ Services.

2979 (b) The functions, duties, and authority of the Department of Family and Children  
2980 Services, created in Ga. L. 1937, p. 355, as amended, are vested in the Department of  
2981 Human ~~Resources~~ Services.

2982 (c) The functions of the State Board for Children and Youth, created in Ga. L. 1963, p. 81,  
2983 except for the policy-making functions transferred to the Board of Human Resources, are  
2984 vested in the Department of Human ~~Resources~~ Services.

2985 (d) ~~Reserved~~.

2986 ~~(e)~~ The functions, duties, and authority of the State Commission on Aging, created in Ga.  
2987 L. 1962, p. 602, except the policy-making functions transferred to the Board of Human  
2988 ~~Resources~~ Services, are vested in the Department of Human ~~Resources~~ Services.

2989 49-2-8.

2990 ~~The five members of the board who are licensed to practice medicine pursuant to Chapter~~  
2991 ~~34 of Title 43 shall pass upon and approve the professional qualifications of all physicians~~  
2992 ~~and medical doctors employed by the department.~~ Reserved.

2993 49-2-9.

2994 In administering any funds appropriated or made available to the department for welfare  
2995 purposes, the department shall have the power:

2996 (1) To make use of all local processes to enforce the minimum standards prescribed  
2997 under or pursuant to the laws providing for grants-in-aid; and

2998 (2) To administer and disburse any and all funds which may be allocated by any  
2999 municipality of the state or private organization or society for such purposes as may be  
3000 designated by such municipality or other agency. The department may use a reasonable  
3001 percentage of such funds for administrative costs, not to exceed 10 percent of the total  
3002 sum administered.

3003 49-2-10.

3004 For the purpose of carrying out the duties and obligations of the department for  
3005 performance of welfare services of the state, for administrative costs, for matching such  
3006 federal funds as may be available for all of the aforesaid services, for the purpose of  
3007 establishing an equalization fund to be used in assisting those counties which may be  
3008 unable otherwise to bear their proportionate share of the expenses of administration and of  
3009 dispensing the benefits provided for under this title, and for dispensing all of the benefits  
3010 provided for under this title, the General Assembly shall make appropriations out of the  
3011 general fund of the state or otherwise for the various and separate activities of the  
3012 department. All funds appropriated or allocated to the department or to the county  
3013 departments by the General Assembly, the fiscal authorities of the respective counties, and  
3014 by the federal government through its appropriate agencies and instrumentalities are  
3015 declared to be funds provided for a public purpose; and all appropriations provided for in  
3016 this Code section and hereafter may be expended and distributed by the department for the  
3017 purposes provided for under this title.

3018 49-2-11.

3019 (a) Notwithstanding any provision in this title to the contrary, particularly Articles 2, 3,  
3020 and 5 of Chapter 4 of this title, nothing therein contained shall be construed to prevent the  
3021 acceptance of more than 50 percent federal matching funds. The department may accept  
3022 and disburse the maximum percentage of federal grant-in-aid funds made available to this  
3023 state by the federal government under any formula of variable grants or other formula for  
3024 the granting of federal grants-in-aid.

3025 (b) The department is authorized to comply with the requirements prescribed by Congress  
3026 as conditions to federal grants.

3027 (c) To the end of empowering the department to comply with federal requirements and to  
3028 effectuate the purposes of grant-in-aid welfare programs, the board is authorized to  
3029 promulgate all necessary rules and regulations and the department is authorized to do all  
3030 things necessary and proper for the securing of the maximum amount of such federal  
3031 grants.

3032 (d) In the event that Congress appropriates funds for grants-in-aid to the state governments  
3033 for the purpose of assisting them in the operation of general assistance programs, medical  
3034 assistance programs, or any other welfare programs, the department is authorized to  
3035 cooperate with the federal government in such programs, to accept funds from the federal  
3036 government in the maximum amounts made available, to disburse them, and to comply  
3037 with all requirements of the federal government necessary for the securing of such  
3038 grant-in-aid funds.

3039 (e) Any state funds which are made available by appropriation to the department for  
3040 matching federal funds shall be available to supply the state portion of expenditures for  
3041 general assistance programs, medical assistance programs, or any other type welfare  
3042 programs provided for by the federal government which benefit the citizens or residents  
3043 of this state.

3044 (f) Notwithstanding subsections (a) through (e) of this Code section, the Department of  
3045 ~~Community~~ Health shall be the single state agency for the administration of the state  
3046 medical assistance plan.

3047 49-2-12.

3048 (a) All divisions and sections within the department shall make an inventory of all the  
3049 various vehicles to which the department holds title and shall investigate their utilization  
3050 patterns in order to establish and develop a consolidated and coordinated transportation  
3051 plan for the various human services programs of the department, including, but not limited  
3052 to, those programs relating to the aged and to the mentally and physically disabled.

3053 (b) Other departments and agencies of the state shall cooperate with the Department of  
3054 Human ~~Resources~~ Services in mutually beneficial agreements regarding the establishment  
3055 and development of a coordinated transportation plan involving various vehicles to which  
3056 the state has title.

3057 (c) The plan required to be developed under this Code section shall identify the fully  
3058 allocated costs of the transportation component of their services and take into consideration  
3059 various limitations on the expenditure of federal funds which may arise in any consolidated  
3060 or coordinated transportation system. No later than June 30, 1980, a preliminary  
3061 transportation plan shall be submitted by the department to the Human Relations and Aging  
3062 Committee of the House of Representatives and the Education and Youth, ~~Aging, and~~  
3063 ~~Human Ecology~~ Committee of the Senate, which plan shall be revised and submitted to  
3064 such committees every two years thereafter.

3065 49-2-13.

3066 All divisions and sections within the department, in cooperation with the Department of  
3067 Transportation, shall identify those areas of the state where the general transportation needs  
3068 of the elderly and persons with disabilities are not and cannot be adequately served by bus  
3069 service and community service centers furnishing transportation. In further cooperation  
3070 with the Department of Transportation, the department shall identify alternatives for  
3071 meeting the transportation needs of these persons and shall report to the committees  
3072 specified in subsection (c) of Code Section 49-2-12 as required therein. Such alternative

3073 means to be considered for providing for the transportation needs of these persons should  
3074 include, but shall not be limited to:

- 3075 (1) Contract service resulting from competitive bidding by private sector bus operators  
3076 operating under Article 1 of Chapter 7 of Title 46;  
3077 (2) Contract service resulting from competitive bidding by taxi operators;  
3078 (3) Negotiated fee basis with municipal and area-wide transportation systems serving the  
3079 general public; or  
3080 (4) Any combination of ~~above~~ paragraphs (1) through (3) of this Code section.

3081 49-2-13.1.

3082 (a) The department may, when funds are available from the United States government for  
3083 such purposes, provide financial assistance with such funds, or such funds and state general  
3084 funds appropriated for these purposes, to private nonprofit corporations and associations  
3085 for the specific purpose of assisting them in providing transportation services meeting the  
3086 special needs of the elderly or persons with disabilities, or both, for whom the department  
3087 determines that the mass transportation services planned, designed, and carried out by local  
3088 public bodies, agencies, and authorities are unavailable, insufficient, or inappropriate.  
3089 Such financial assistance shall be subject to those terms, conditions, requirements, and  
3090 restrictions as the department determines to be necessary or appropriate in order to carry  
3091 out the purposes of this Code section.

3092 (b) In order to effectuate and enforce this Code section, the department is authorized to  
3093 promulgate necessary rules and regulations and to prescribe conditions and procedures in  
3094 order to assure compliance in carrying out the purposes of this Code section.

3095 49-2-14.

3096 (a) As used in this Code section, the term 'conviction data' means a record of a finding or  
3097 verdict of guilty or a plea of guilty or a plea of nolo contendere with regard to any crime,  
3098 regardless of whether an appeal of the conviction has been sought.

3099 (b) The department may receive from any law enforcement agency conviction data that is  
3100 relevant to a person whom the department, its contractors, or a district or county health  
3101 agency is considering as a final selectee for employment in a position the duties of which  
3102 involve direct care, treatment, custodial responsibilities, or any combination thereof for its  
3103 clients. The department may also receive conviction data which is relevant to a person  
3104 whom the department, its contractors, or a district or county health agency is considering  
3105 as a final selectee for employment in a position if, in the judgment of the employer, a final  
3106 employment decision regarding the selectee can only be made by a review of conviction  
3107 data in relation to the particular duties of the position and the security and safety of clients,

the general public, or other employees. Further, the department or any licensed child-placing agency, designated by the department to assist it in preparing studies of homes in which children in its custody may be placed, may receive from any law enforcement agency conviction data that is relevant to any adult person who resides in a home where children in the custody of the department may be placed.

(c) The department shall establish a uniform method of obtaining conviction data under subsection (a) of this Code section which shall be applicable to the department; and its contractors, and any district or county health agency. Such uniform method shall require the submission to the Georgia Crime Information Center of ~~two complete sets of~~ fingerprints and the records search fee in accordance with Code Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall promptly transmit ~~one set of~~ fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its own records and records to which it has access. After receiving the fingerprints and fee, the Georgia Crime Information Center shall notify the department in writing of any derogatory finding, including, but not limited to, any conviction data regarding the fingerprint records check or if there is no such finding.

(d) All conviction data received shall be for the exclusive purpose of making employment decisions or decisions concerning children in the custody of the department or who are the subjects of a child protective services referral, complaint, or investigation and shall be privileged and shall not be released or otherwise disclosed to any other person or agency except to any person or agency with a legal right to inspect the employment, department, or licensed child-placing agency file. Immediately following the employment decisions or upon receipt of the conviction data concerning any adult person who has contact with a child who is the subject of a child protective services referral, complaint, or investigation or who resides in a home where children in the custody of the department may be placed, all such conviction data collected by the department or the licensed child-placing agency shall be maintained by the department or child-placing agency pursuant to laws regarding and the rules or regulations of the Federal Bureau of Investigation and the Georgia Crime Information Center, as is applicable. Penalties for the unauthorized release or disclosure of any conviction data shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal Bureau of Investigation and the Georgia Crime Information Center, as is applicable.

(e) Notwithstanding the provisions of subsection (c) of this Code section, when a contractor to this department is a personal care home, the provisions of Code Sections 31-7-250 through 31-7-264 shall apply.

(f) The department may promulgate written rules and regulations to implement the provisions of this Code section.

(g) The department may receive from any law enforcement agency criminal history information, including arrest and conviction data, and any and all other information which it may be provided pursuant to state or federal law which is relevant to any adult person who resides in a home where children in the custody of the department have been or may be placed or which is relevant to any adult person who resides in the home of or provides care to a child who is the subject of a child protective services referral, complaint, or investigation to the fullest extent permissible by federal and state law, including but not limited to Public Law 92-544. The department shall establish a uniform method of obtaining criminal history information under this subsection. Such method shall require the submission to the Georgia Crime Information Center of ~~two complete sets of fingerprint cards~~ fingerprints together with any required records search fee in accordance with Code Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall promptly transmit ~~one set of~~ the fingerprints submitted by the department to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its own records and records to which it has access. Such method shall also permit the submission of the names alone of such adult persons to the proper law enforcement agency when the department is considering placement of a child in exigent circumstances for a name based check of such adult person's criminal history information as maintained by the Georgia Crime Information Center and the Federal Bureau of Investigation. In such exigent circumstances, the department shall submit ~~two complete sets of fingerprint cards~~ fingerprints of those adult persons in the placement home, together with any required records search fee, to the Federal Bureau of Investigation within 15 calendar days of the date of the name based check on that person. ~~Fingerprint cards~~ The fingerprints shall be forwarded to the Federal Bureau of Investigation through the Georgia Crime Information Center in accordance with Code Section 35-3-35. Following the submission of such ~~fingerprint cards~~ fingerprints, the department may receive the criminal history information, including arrest and conviction data, relevant to such person. In the event that a child has been placed in exigent circumstances, a name based records search has been requested for any adult person of the placement household, and that adult refuses to provide fingerprints after being requested to do so by the department, the child shall be immediately removed from the placement household by the department, provided that the child is in the custody of the department.

(h) The department shall be authorized to conduct a name or descriptor based check of any adult person's criminal history information, including arrest and conviction data, and other information from the Georgia Crime Information Center regarding any adult person who

resides in a home where children in the custody of the department have been or may be placed or which is relevant to any adult person who resides in the home of or provides care to a child who is the subject of a child protective services referral, complaint, or investigation without the consent of such adult person and without fingerprint comparison to the fullest extent permissible by federal and state law.

49-2-14.1.

(a) As used in this Code section, the term:

(1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of whether an appeal of the conviction has been sought.

(2) 'Crime' means commission of the following offenses:

(A) A violation of Code Section 16-5-1, relating to murder and felony murder;

(B) A violation of Code Section 16-5-21, relating to aggravated assault;

(C) A violation of Code Section 16-5-24, relating to aggravated battery;

(D) A violation of Code Section 16-5-70, relating to cruelty to children;

(E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of age or older;

(F) A violation of Code Section 16-6-1, relating to rape;

(G) A violation of Code Section 16-6-2, relating to aggravated sodomy;

(H) A violation of Code Section 16-6-4, relating to child molestation;

(I) A violation of Code Section 16-6-5, relating to enticing a child for indecent purposes;

(J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in custody, detained persons, or patients in hospitals or other institutions;

(K) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;

(L) A violation of Code Section 16-8-41, relating to armed robbery;

(M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of a disabled adult or elder person; or

(N) Any other offense committed in another jurisdiction that, if committed in this state, would be deemed to be a crime listed in this paragraph without regard to its designation elsewhere.

(3) 'Criminal record' means any of the following:

(A) Conviction of a crime;

(B) Arrest, charge, and sentencing for a crime where:

(i) A plea of nolo contendere was entered to the charge;

(ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

3217 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;  
 3218 or  
 3219 (C) Arrest and being charged for a crime if the charge is pending, unless the time for  
 3220 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

3221 (4) 'Facility' means a:  
 3222 (A) ~~Personal care home required to be licensed or permitted under Code Section~~  
 3223 ~~31-7-12;~~  
 3224 ~~(B) Private home care provider required to be licensed under Article 13 of Chapter 7~~  
 3225 ~~of Title 31;~~  
 3226 ~~(C) Community living arrangement subject to licensure under paragraph (16)(11) of~~  
 3227 ~~subsection (b) and subsection (c) of Code Section 37-1-20 49-2-6; or~~  
 3228 ~~(D)~~(B) Child welfare agency required to be licensed under Code Section 49-5-12.

3229 (5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of  
 3230 Chapter 3 of Title 35.

3231 (6) 'GCIC information' means criminal history record information as defined in Code  
 3232 Section 35-3-30.

3233 (7) 'License' means the document issued by the department to authorize the facility to  
 3234 operate.

3235 (8) 'Owner' means any individual or any person affiliated with a corporation, partnership,  
 3236 or association with 10 percent or greater ownership interest in a facility providing care  
 3237 to persons under the license of the facility in this state and who:  
 3238 (A) Purports to or exercises authority of the owner in a facility;  
 3239 (B) Applies to operate or operates a facility;  
 3240 (C) Maintains an office on the premises of a facility;  
 3241 (D) Resides at a facility;  
 3242 (E) Has direct access to persons receiving care at a facility;  
 3243 (F) Provides direct personal supervision of facility personnel by being immediately  
 3244 available to provide assistance and direction during the time such facility services are  
 3245 being provided; or  
 3246 (G) Enters into a contract to acquire ownership of a facility.

3247 (9) 'Records check application' means ~~two sets of classifiable~~ fingerprints in such form  
 3248 and of such quality as prescribed by the Georgia Crime Information Center under  
 3249 standards adopted by the Federal Bureau of Investigation and a records search fee to be  
 3250 established by the department by rule and regulation, payable in such form as the  
 3251 department may direct to cover the cost of obtaining criminal background information  
 3252 pursuant to this Code section.

(b) An owner with a criminal record shall not operate or hold a license to operate a facility, and the department shall revoke the license of any owner operating a facility or refuse to issue a license to any owner operating a facility if it determines that such owner has a criminal record; provided, however, that an owner who holds a license to operate a facility on or before June 30, 2007, shall not have his or her license revoked prior to a hearing being held before a hearing officer pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(c)(1) Prior to approving any license for a new facility and periodically as established by the department by rule and regulation, the department shall require an owner to submit a records check application. The department shall establish a uniform method of obtaining an owner's records check application.

(2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph, the department shall transmit to the GCIC ~~both sets of the~~ fingerprints and ~~the~~ records search fee from each fingerprint records check application in accordance with Code Section 35-3-35. Upon receipt thereof, the GCIC shall promptly transmit ~~one set of the~~ fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its records and records to which it has access. Within ten days after receiving fingerprints acceptable to the GCIC and the fee, the GCIC shall notify the department in writing of any criminal record or if there is no such finding. After a search of Federal Bureau of Investigation records and fingerprints and upon receipt of the bureau's report, the department shall make a determination about an owner's criminal record and shall notify the owner in writing as to the department's determination as to whether the owner has or does not have a criminal record.

(B) The department may either perform criminal background checks under agreement with the GCIC or contract with the GCIC and appropriate law enforcement agencies which have access to GCIC and Federal Bureau of Investigation information to have those agencies perform for the department criminal background checks for owners. The department or the appropriate law enforcement agencies may charge reasonable fees for performing criminal background checks.

(3)(A) The department's determination regarding an owner's criminal record, or any action by the department revoking or refusing to grant a license based on such determination, shall constitute a contested case for purposes of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that any hearing required to be held pursuant thereto may be held reasonably expeditiously after such determination or action by the department.

(B) In a hearing held pursuant to subparagraph (A) of this paragraph or subsection (b) of this Code section, the hearing officer shall consider in mitigation the length of time since the crime was committed, the absence of additional criminal charges, the circumstances surrounding the commission of the crime, other indicia of rehabilitation, the facility's history of compliance with the regulations, and the owner's involvement with the licensed facility in arriving at a decision as to whether the criminal record requires the denial or revocation of the license to operate the facility. Where a hearing is required, at least 30 days prior to such hearing, the hearing officer shall notify the office of the prosecuting attorney who initiated the prosecution of the crime in question in order to allow the prosecutor to object to a possible determination that the conviction would not be a bar for the grant or continuation of a license as contemplated within this Code section. If objections are made, the hearing officer shall take such objections into consideration in considering the case.

(4) ~~Neither the~~ The GCIC, the department, any law enforcement agency, ~~nor~~ and the employees of any such entities shall not be responsible for the accuracy of information nor have any liability for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information or determination based thereon pursuant to this Code section.

(d) All information received from the Federal Bureau of Investigation or the GCIC shall be for the exclusive purpose of approving or denying the granting of a license to a new facility or the revision of a license of an existing facility when a new owner is proposed and shall not be released or otherwise disclosed to any other person or agency except to any person or agency with a legal right to inspect the facility. All such information collected by the department shall be maintained by the department pursuant to laws regarding and the rules or regulations of the Federal Bureau of Investigation and the GCIC, as is applicable. Penalties for the unauthorized release or disclosure of any such information shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal Bureau of Investigation and the GCIC, as is applicable.

(e) The requirements of this Code section are supplemental to any requirements for a license imposed by Article 3 of Chapter 5 of this title or Article 11 of Chapter 7 of Title 31.

(f) The department shall promulgate written rules and regulations to implement the provisions of this Code section.

49-2-15.

When any action is brought against the Department of Human ~~Resources~~ Services, the Board of Human ~~Resources~~ Services, the commissioner of human ~~resources~~ services, or any employee or agent thereof or when any action is brought in which the department could

be held responsible for damages awarded in such action, it shall be the duty of the plaintiff to provide for service of notice of the pendency of such action by providing for service of a second original process, issued from the court in which the action is filed, upon the commissioner of human ~~resources~~ services personally or upon a person designated by the commissioner in writing to serve as agent for the acceptance of such service of process. The service of process in such action shall not be perfected until such second original process has been served as provided in this Code section. The provisions of this Code section shall be cumulative of any other requirements imposed by law for the service of process or notice.

49-2-16.

(a) There is created a Georgia Council for Welfare Administration. The objectives ~~for~~ of the council shall be:

(1) To promote improvements in public welfare and social service programs of the Division of Family and Children Services within the Department of Human ~~Resources~~ Services;

(2) To provide a forum for the interchange of information relating to welfare and social service programs; and

(3) To promote with any organization exempt under Section 501(c)(4) of the United States Internal Revenue Code of 1986 a more efficient public welfare delivery system for the citizens of this state.

(b) Membership in the council shall be open to persons actively employed in the Division of Family and Children Services within the Department of Human ~~Resources~~ Services.

(c) No state funds shall be appropriated for the benefit or use of the council.

(d) The council is authorized to adopt bylaws which prescribe its organizational structure, officers, terms and condition of office, meeting schedules, and such other organizational procedures as are necessary for its lawful and effective functioning.

(e) The commissioner of human ~~resources~~ services shall call the initial meeting of the council at which time the council shall organize and select its officers.

49-2-17.

(a) This Code section shall be applicable to any agency, facility, institution, community living arrangement, or entity subject to regulation by the department under Chapter 5 of this title or paragraph (11) of subsection (b) of Code Section 49-2-6. For purposes of this Code section, the term 'license' shall be used to refer to any license, permit, registration, or commission issued by the department pursuant to the provisions of the law cited in this subsection.

(b) The department shall have the authority to take any of the actions enumerated in subsection (c) of this Code section upon a finding that the applicant or licensee has:

(1) Knowingly made any false statement of material information in connection with the application for a license, or in statements made or on documents submitted to the department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the agency, facility, institution, or entity;

(2) Failed or refused to provide the department with access to the premises subject to regulation or information pertinent to the initial or continued licensing of the agency, facility, institution, or entity;

(3) Failed to comply with the licensing requirements of this state; or

(4) Failed to comply with any provision of this Code section.

(c) When the department finds that any applicant or licensee has violated any provision of subsection (b) of this Code section or laws, rules, regulations, or formal orders related to the initial or continued licensing of the agency, facility, institution, or entity, the department, subject to notice and opportunity for hearing, may take any of the following actions:

(1) Refuse to grant a license; provided, however, that the department may refuse to grant a license without holding a hearing prior to taking such action;

(2) Administer a public reprimand;

(3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license;

(4) Prohibit any applicant or licensee from allowing a person who previously was involved in the management or control, as defined by rule, of any agency, facility, institution, or entity which has had its license or application revoked or denied within the past 12 months to be involved in the management or control of such agency, facility, institution, or entity;

(5) Revoke any license;

(6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for each violation of a law, rule, regulation, or formal order related to the initial or ongoing licensing of any agency, facility, institution, or entity; or

(7) Limit or restrict any license as the department deems necessary for the protection of the public, including, but not limited to, restricting some or all services of or admissions into an agency, facility, institution, or entity for a time certain.

In taking any of the actions enumerated in this subsection, the department shall consider the seriousness of the violation, including the circumstances, extent, and gravity of the prohibited acts, and the hazard or potential hazard created to the health or safety of the public.

3397 (d) The department may deny a license or otherwise restrict a license for any applicant  
3398 who has had a license denied, revoked, or suspended within one year of the date of an  
3399 application or who has transferred ownership or governing authority of an agency, facility,  
3400 institution, or entity subject to regulation by the department within one year of the date of  
3401 a new application when such transfer was made in order to avert denial, revocation, or  
3402 suspension of a license.

3403 (e) With regard to any contested case instituted by the department pursuant to this Code  
3404 section or other provisions of law which may now or hereafter authorize remedial or  
3405 disciplinary grounds and action, the department may, in its discretion, dispose of the action  
3406 so instituted by settlement. In such cases, all parties, successors, and assigns to any  
3407 settlement agreement shall be bound by the terms specified therein and violation thereof  
3408 by any applicant or licensee shall constitute grounds for any action enumerated in  
3409 subsection (c) of this Code section.

3410 (f) The department shall have the authority to make public or private investigations or  
3411 examinations inside or outside of this state to determine whether the provisions of this  
3412 Code section or any other law, rule, regulation, or formal order relating to the licensing of  
3413 any agency, facility, institution, or entity has been violated. Such investigations may be  
3414 initiated at any time, in the discretion of the department, and may continue during the  
3415 pendency of any action initiated by the department pursuant to subsection (c) of this Code  
3416 section.

3417 (g) For the purpose of conducting any investigation, inspection, or survey, the department  
3418 shall have the authority to require the production of any books, records, papers, or other  
3419 information related to the initial or continued licensing of any agency, facility, institution,  
3420 or entity.

3421 (h) Pursuant to the investigation, inspection, and enforcement powers given to the  
3422 department by this Code section and other applicable laws, the department may assess  
3423 against an agency, facility, institution, or entity reasonable and necessary expenses incurred  
3424 by the department pursuant to any administrative or legal action required by the failure of  
3425 the agency, facility, institution, or entity to fully comply with the provisions of any law,  
3426 rule, regulation, or formal order related to the initial or continued licensing. Assessments  
3427 shall not include attorney's fees and expenses of litigation, shall not exceed other actual  
3428 expenses, and shall only be assessed if such investigations, inspection, or enforcement  
3429 actions result in adverse findings, as finally determined by the department, pursuant to  
3430 administrative or legal action.

3431 (i) For any action taken or any proceeding held under this Code section or under color of  
3432 law, except for gross negligence or willful or wanton misconduct, the department, when

acting in its official capacity, shall be immune from liability and suit to the same extent that any judge of any court of general jurisdiction in this state would be immune.

(j) In an administrative or legal proceeding under this Code section, a person or entity claiming an exemption or an exception granted by law, rule, regulation, or formal order has the burden of proving this exemption or exception.

(k) This Code section and all actions resulting from its provisions shall be administered in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(l) The provisions of this Code section shall be supplemental to and shall not operate to prohibit the department from acting pursuant to those provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action for the department. In cases where those other provisions of law so authorize other disciplinary grounds and actions, but this Code section limits such grounds or actions, those other provisions shall apply.

(m) The department is authorized to promulgate rules and regulations to implement the provisions of this Code section.

49-2-18.

(a)(1) The commissioner may order the emergency relocation of patients or residents from a community living arrangement subject to licensure under paragraph (11) of subsection (b) of Code Section 49-2-6 when the commissioner has determined that the patients or residents are subject to an imminent and substantial danger.

(2) When an order is issued under this subsection, the commissioner shall provide for:

(A) Notice to the patient or resident, his or her next of kin or guardian, and his or her physician of the emergency relocation and the reasons therefor;

(B) Relocation to the nearest appropriate community living arrangement; and

(C) Other protection designed to ensure the welfare and, when possible, the desires of the patient or resident.

(b)(1) The commissioner may order the emergency placement of a monitor in a community living arrangement subject to licensure under paragraph (11) of subsection (b) of Code Section 49-2-6 when one or more of the following conditions are present:

(A) The community living arrangement is operating without a license;

(B) The department has denied application for a license or has initiated action to revoke the existing license of the community living arrangement;

(C) The community living arrangement is closing or plans to close and adequate arrangements for relocation of the patients or residents have not been made at least 30 days before the date of closure; or

3468 (D) The health, safety, security, rights, or welfare of the patients or residents cannot  
3469 be adequately assured by the community living arrangement.

3470 (2) A monitor may be placed, pursuant to this subsection, in a community living  
3471 arrangement for no more than ten days, during which time the monitor shall observe  
3472 conditions and compliance with any recommended remedial action of the department by  
3473 the community living arrangement. The monitor shall report to the department. The  
3474 monitor shall not assume any administrative responsibility within the community living  
3475 arrangement nor shall the monitor be liable for any actions of the community living  
3476 arrangement. The costs of placing a monitor in a community living arrangement shall be  
3477 paid by the community living arrangement unless the order placing the monitor is  
3478 determined to be invalid in a contested case proceeding under subsection (d) of this Code  
3479 section, in which event the costs shall be paid by the state.

3480 (c)(1) The commissioner may order the emergency prohibition of admissions to a  
3481 community living arrangement subject to licensure under paragraph (11) of subsection  
3482 (b) of Code Section 49-2-6 when the community living arrangement has failed to correct  
3483 a violation of departmental permit rules or regulations within a reasonable period of time,  
3484 as specified in the department's corrective order, and the violation:

3485 (A) Could jeopardize the health and safety of the residents or patients in the  
3486 community living arrangement if allowed to remain uncorrected; or

3487 (B) Is a repeat violation over a 12 month period, which is intentional or due to gross  
3488 negligence.

3489 (2) Admission to a community living arrangement may be suspended until the violation  
3490 has been corrected or until the department has determined that the community living  
3491 arrangement has undertaken the action necessary to effect correction of the violation.

3492 (d) The commissioner may issue emergency orders pursuant to this Code section only if  
3493 authorized by rules and regulations of the department. Unless otherwise provided in the  
3494 order, an emergency order shall become effective immediately. The department shall hold  
3495 a preliminary hearing within ten days following a request therefor by any community living  
3496 arrangement affected by an emergency order. If at the preliminary hearing the order is  
3497 determined by the department to be invalid, that order shall thereupon become void and of  
3498 no effect. If at the preliminary hearing the order is determined by the department to be  
3499 valid, that determination shall constitute a contested case under Chapter 13 of Title 50, the  
3500 'Georgia Administrative Procedure Act,' and that order shall remain in effect until  
3501 determined invalid in a proceeding regarding the contested case or until rescinded by the  
3502 commissioner, whichever is earlier. For purposes of this subsection, an emergency order  
3503 is valid only if the order is authorized to be issued under this Code section and rules and  
3504 regulations relating thereto.

3505 (e) The powers provided by this Code section are cumulative of all other powers of the  
3506 department, board, and commissioner.

3507 ARTICLE 2

3508 49-2-20.

3509 As used in this part, the term:

3510 (1) 'Inspection warrant' means a warrant authorizing a search or inspection of private  
3511 property where such a search or inspection is one that is necessary for the enforcement  
3512 of a residential child care licensing law.

3513 (2) 'Residential child care licensing law' means this chapter and Chapter 5 of this title  
3514 and any rule or regulation duly promulgated thereunder.

3515 49-2-21.

3516 The commissioner or the commissioner's designee, in addition to other procedures now or  
3517 hereafter provided, may obtain an inspection warrant under the conditions specified in this  
3518 part. Such warrant shall authorize the commissioner or the commissioner's designee to  
3519 conduct a search or inspection of property either with or without the consent of the person  
3520 whose property is to be searched or inspected if such search or inspection is one that is  
3521 elsewhere authorized under the rules and regulations duly promulgated pursuant to a  
3522 residential child care licensing law.

3523 49-2-22.

3524 (a) Inspection warrants shall be issued only by a judge of a court of record whose  
3525 territorial jurisdiction encompasses the property to be inspected.

3526 (b) The issuing judge shall issue the warrant when the judge is satisfied that the following  
3527 conditions are met:

3528 (1) The one seeking the warrant must establish under oath or affirmation that the  
3529 property to be inspected is to be inspected as a part of a legally authorized program of  
3530 inspection which includes that property or that there is probable cause for believing that  
3531 there is a condition, object, activity, or circumstance which legally justifies such an  
3532 inspection of that property; and

3533 (2) The issuing judge determines that the issuance of the warrant is authorized by this  
3534 part.

3535 49-2-23.

3536 The inspection warrant shall be validly issued only if it meets the following requirements:

3537     (1) The warrant is attached to the affidavit required to be made in order to obtain the  
3538     warrant;  
3539     (2) The warrant describes either directly or by reference to the affidavit the property  
3540     upon which the inspection is to occur and is sufficiently accurate that the executor of the  
3541     warrant and the owner or possessor of the property can reasonably determine from it the  
3542     property of which the warrant authorizes an inspection;  
3543     (3) The warrant indicates the conditions, objects, activities, or circumstances which the  
3544     inspection is intended to check or reveal; and  
3545     (4) The warrant refers in general terms to the statutory or regulatory provisions sought  
3546     to be enforced.

3547     49-2-24.  
3548     No facts discovered or evidence obtained in an inspection conducted under authority of an  
3549     inspection warrant issued pursuant to this part shall be competent as evidence in any  
3550     criminal proceeding against any party.

3551     49-2-25.  
3552     The Department of Human Services is empowered to institute appropriate proceedings for  
3553     injunction in the courts of competent jurisdiction in this state for the purpose of enjoining  
3554     a violation of any provision of a residential child care licensing law as now existing or as  
3555     may be hereafter amended or of any regulation or order duly issued by the board or  
3556     department. The department is also empowered to maintain action for injunction to abate  
3557     any public nuisance which is injurious to the public health, safety, or comfort. Such  
3558     actions may be maintained notwithstanding the fact that such violation also constitutes a  
3559     crime and notwithstanding that other adequate remedies at law exist. Such actions may be  
3560     instituted in the name of the department in the county in which a violation of any provision  
3561     of this title occurs."

## 3562                                   **SECTION 2-2.**

3563     The following Code sections of the Official Code of Georgia Annotated are amended by  
3564     replacing "Department of Human Resources" wherever it occurs with "Department of Human  
3565     Services":

3566         (1) Code Section 2-7-102, relating to grounds for denial, suspension, revocation, or  
3567         modification of license, permit, or certification for use and application of pesticides;  
3568         (2) Code Section 10-1-855, relating to referral procedures to provide intervention and  
3569         assistance for elder or disabled persons;

- 3570 (3) Code Section 12-6-49.1, relating to denial or suspension of license for  
3571 noncompliance with child support order;
- 3572 (4) Code Section 15-11-8, relating to expenses charged to county and payment by  
3573 parents on court order;
- 3574 (5) Code Section 15-11-14, relating to emergency care and supervision of a child by the  
3575 Department of Human Resources;
- 3576 (6) Code Section 15-11-15, relating to detainment of child in temporary protective  
3577 custody of a physician;
- 3578 (7) Code Section 15-11-19, relating to the establishment of the Council of Juvenile Court  
3579 Judges;
- 3580 (8) Code Section 15-11-55, relating to disposition of a deprived child;
- 3581 (9) Code Section 15-11-58, relating to reasonable efforts regarding reunification of  
3582 family;
- 3583 (10) Code Section 15-11-71, relating to supervision fees for juvenile courts;
- 3584 (11) Code Section 15-11-103, relating to placement of a child following a termination  
3585 order;
- 3586 (12) Code Section 15-11-171, relating to definitions relative to the "Georgia Child  
3587 Advocate for the Protection of Children Act";
- 3588 (13) Code Section 15-11A-4, relating to appointment of personnel to the Family Court  
3589 Division of the Superior Court of Fulton County;
- 3590 (14) Code Section 15-18-14, relating to appointment of prosecuting attorneys;
- 3591 (15) Code Section 18-4-131, relating to definitions relative to continuing garnishment  
3592 for family support;
- 3593 (16) Code Section 19-6-15, relating to child support in final verdict or decree;
- 3594 (17) Code Section 19-6-31, relating to definitions relative to income deduction orders;
- 3595 (18) Code Section 19-6-33.1, relating to the family support registry;
- 3596 (19) Code Section 19-6-51, relating to members of the Georgia Child Support  
3597 Commission;
- 3598 (20) Code Section 19-7-5, relating to reporting of child abuse;
- 3599 (21) Code Section 19-7-6, relating to reporting of juvenile drug use;
- 3600 (22) Code Section 19-7-22, relating to petitions for legitimation of child;
- 3601 (23) Code Section 19-7-40, relating to jurisdiction and administrative determination of  
3602 paternity;
- 3603 (24) Code Section 19-7-43, relating to petitions to establish paternity of a child;
- 3604 (25) Code Section 19-7-52, relating to whom support payments may be made;
- 3605 (26) Code Section 19-7-54, relating to motions to set aside determination of paternity;
- 3606 (27) Code Section 19-8-1, relating to definitions relative to adoption;

- 3607 (28) Code Section 19-8-5, relating to surrender or termination of parental or guardian's  
3608 rights where child to be adopted by a third party;
- 3609 (29) Code Section 19-8-23, relating to where records of adoption are kept;
- 3610 (30) Code Section 19-8-26, relating to how surrender of parental rights is executed;
- 3611 (31) Code Section 19-9-122, relating to delegation of authority for the care of a minor  
3612 child;
- 3613 (32) Code Section 19-9-129, relating to the power of attorney form for the care of a  
3614 minor child;
- 3615 (33) Code Section 19-10A-5, relating to investigating and reporting utilization of  
3616 provisions under the "Safe Place for Newborns Act of 2002";
- 3617 (34) Code Section 19-10A-6, relating to reimbursement of medical costs under the "Safe  
3618 Place for Newborns Act of 2002";
- 3619 (35) Code Section 19-11-3, relating to definitions relative to the "Child Support  
3620 Recovery Act";
- 3621 (36) Code Section 19-11-9.1, relating to duty to furnish information about obligor to the  
3622 Department of Human Resources;
- 3623 (37) Code Section 19-11-9.2, relating to duty of employers to report hiring or rehiring  
3624 of persons;
- 3625 (38) Code Section 19-11-9.3, relating to suspension or denial of license for  
3626 noncompliance with child support order;
- 3627 (39) Code Section 19-11-18, relating to collection procedures for child support payments  
3628 in arrears;
- 3629 (40) Code Section 19-11-30.1, relating to the computer based registry for financial  
3630 institutions with regard to the "Child Support Recovery Act";
- 3631 (41) Code Section 19-11-30.2, relating to definitions relative to the computer based  
3632 registry for financial institutions with regard to the "Child Support Recovery Act";
- 3633 (42) Code Section 19-11-30.3, relating to the responsibility of the Department of Human  
3634 Resources Bank Match Registry;
- 3635 (43) Code Section 19-11-58, relating to the Department of Human Resources designated  
3636 as the state information agency under the "Uniform Reciprocal Enforcement of Support  
3637 Act";
- 3638 (44) Code Section 19-11-102, relating to designated tribunals under the "Uniform  
3639 Interstate Family Support Act";
- 3640 (45) Code Section 19-11-110, relating to jurisdiction under the "Uniform Interstate  
3641 Family Support Act";

- 3642 (46) Code Section 19-11-127, relating to authority of district attorney to represent the  
3643 Department of Human Resources in a proceeding under the "Uniform Interstate Family  
3644 Support Act";
- 3645 (47) Code Section 19-11-129, relating to the Department of Human Resources as the  
3646 state information agency under the "Uniform Interstate Family Support Act";
- 3647 (48) Code Section 19-13-20, relating to definitions relative to family violence shelters;
- 3648 (49) Code Section 19-15-2, relating to child abuse protocol committees;
- 3649 (50) Code Section 19-15-3, relating to county multiagency child fatality review  
3650 committees;
- 3651 (51) Code Section 20-1A-60, relating to definitions relative to the Georgia Child Care  
3652 Council;
- 3653 (52) Code Section 20-2-133, relating to free public instruction for children in elementary  
3654 and secondary education;
- 3655 (53) Code Section 20-2-250, relating to projects to improve effectiveness in elementary  
3656 and secondary education;
- 3657 (54) Code Section 20-2-696, relating to duties of visiting teachers and attendance  
3658 officers;
- 3659 (55) Code Section 20-3-660, relating to creation of a program of postsecondary grants  
3660 for foster children and adopted children;
- 3661 (56) Code Section 29-4-2, relating to qualifications of guardians selected for adults;
- 3662 (57) Code Section 29-4-3, relating to order of preference in selection of guardians;
- 3663 (58) Code Section 29-9-10, relating to oath by a duly appointed delegate of the  
3664 Department of Human Resources;
- 3665 (59) Code Section 29-10-3, relating to qualifications and requirements of public  
3666 guardians;
- 3667 (60) Code Section 29-10-4, relating to registration of public guardians with the probate  
3668 court;
- 3669 (61) Code Section 29-10-10, relating to compensation of public guardians;
- 3670 (62) Code Section 29-10-11, relating to appropriation of funds for compensation of  
3671 public guardians in certain circumstances;
- 3672 (63) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
- 3673 (64) Code Section 30-2-7, relating to compensation of workers in the Georgia Industries  
3674 for the Blind;
- 3675 (65) Code Section 30-5-3, relating to definitions relative to the "Disabled Adults and  
3676 Elder Persons Protection Act"
- 3677 (66) Code Section 30-5-10, relating to cooperative effort in development of programs  
3678 relating to the abuse and exploitation of persons 65 years of age or older;

3679 (67) Code Section 31-7-282, relating to collection and submission of health care data;  
3680 (68) Code Section 31-8-52, relating to the establishment of a long-term care ombudsman  
3681 program;  
3682 (69) Code Section 31-8-116, relating to involuntary transfer of residents discharged from  
3683 a long-term care facility;  
3684 (70) Code Section 31-10-9.1, relating to social security account information of parents  
3685 with respect to vital records;  
3686 (71) Code Section 34-8-199, relating to uncollected overissuance of food stamp coupons;  
3687 (72) Code Section 39-4-1, relating to the definition of "appropriate public authority" with  
3688 respect to the Interstate Compact on the Placement of Children;  
3689 (73) Code Section 39-4-2, relating to the definition of "appropriate authority in the  
3690 receiving state" with respect to the Interstate Compact on the Placement of Children;  
3691 (74) Code Section 40-5-2, relating to keeping of records of applications for licenses and  
3692 information on licensees;  
3693 (75) Code Section 40-5-54.1, relating to denial or suspension of license for  
3694 noncompliance with child support order;  
3695 (76) Code Section 42-1-12, relating to the state sexual offender registry;  
3696 (77) Code Section 42-9-58, relating to effect of state pardons and paroles laws on other  
3697 laws respecting parole and probation;  
3698 (78) Code Section 43-1-19, relating to grounds for refusing to grant or revoking licenses  
3699 by a professional licensing board;  
3700 (79) Code Section 45-9-4, relating to the commissioner of administrative services to  
3701 purchase insurance or indemnity contracts;  
3702 (80) Code Section 45-13-22, relating to distribution of Georgia Laws and journals of the  
3703 House of Representatives and Senate;  
3704 (81) Code Section 46-4-152, relating to definitions relative to the "Natural Gas  
3705 Competition and Deregulation Act";  
3706 (82) Code Section 46-4-158.3, relating to adequate and accurate consumer information  
3707 disclosure statements;  
3708 (83) Code Section 48-7-29.15, relating to a tax credit for the adoption of a foster child;  
3709 (84) Code Section 49-3-1, relating to establishment of county and district departments,  
3710 boards, and directors;  
3711 (85) Code Section 49-3-3, relating to appointment of county director; bond of county  
3712 director;  
3713 (86) Code Section 49-3-4, relating to appointment of staff, salaries, and power of the  
3714 commissioner of human resources to transfer employees;

3715 (87) Code Section 49-3-6, relating to functions of county departments of family and  
3716 children services;  
3717 (88) Code Section 49-4-2, relating to definitions relative to public assistance;  
3718 (89) Code Section 49-4-3, relating to establishment of categories of public assistance;  
3719 (90) Code Section 49-4-6, relating to reserves, income, and resources to be disregarded  
3720 in determining eligibility for public assistance;  
3721 (91) Code Section 49-4-8, relating to applications for public assistance;  
3722 (92) Code Section 49-4-9, relating to investigation and record concerning application for  
3723 public assistance;  
3724 (93) Code Section 49-4-14, relating to regulations as to records relating to public  
3725 assistance;  
3726 (94) Code Section 49-4-36, relating to payment of assistance for needy individuals who  
3727 are 65 years of age or older after recipient moves to another county;  
3728 (95) Code Section 49-4-54, relating to duties of county departments under the "Aid to  
3729 the Blind Act";  
3730 (96) Code Section 49-4-56, relating to reexamination of recipient's eyesight under the  
3731 "Aid to the Blind Act";  
3732 (97) Code Section 49-4-60, relating to payment of assistance for needy blind individuals  
3733 after recipient moves to another county;  
3734 (98) Code Section 49-4-85, relating to payment of assistance for needy individuals who  
3735 are totally and permanently disabled after recipient moves to another county;  
3736 (99) Code Section 49-4-162, relating to the establishment of the Georgia Qualified  
3737 Long-term Care Partnership Program;  
3738 (100) Code Section 49-4-171, relating to a hearing on the petition for a personal  
3739 representative to manage assistance payments;  
3740 (101) Code Section 49-4-181, relating to definitions relative to temporary assistance for  
3741 needy families;  
3742 (102) Code Section 49-4-183, relating to administration of the temporary assistance for  
3743 needy families program by the Department of Human Resources;  
3744 (103) Code Section 49-4-190, relating to construction of the laws relating to the  
3745 temporary assistance for needy families program;  
3746 (104) Code Section 49-5-4, relating to the coordination of other state departments,  
3747 agencies, officers, and employees for children and youth services;  
3748 (105) Code Section 49-5-7, relating to development and administration of public child  
3749 welfare and youth services;  
3750 (106) Code Section 49-5-8, relating to powers and duties of the Department of Human  
3751 Resources with respect to programs and protection for children and youth;

3752 (107) Code Section 49-5-12, relating to licensing and inspection of child welfare  
3753 agencies;  
3754 (108) Code Section 49-5-41, relating to persons and agencies permitted access to child  
3755 abuse and deprivation records;  
3756 (109) Code Section 49-5-41.1, relating to inspection and retention of records of juvenile  
3757 drug use;  
3758 (110) Code Section 49-5-90, relating to definitions relative to emergency protection of  
3759 children in certain institutions;  
3760 (111) Code Section 49-5-130, relating to legislative findings and intent relative to the  
3761 Governor's Office for Children and Families;  
3762 (112) Code Section 49-5-154, relating to study of youth needs for delinquency  
3763 prevention and community based services;  
3764 (113) Code Section 49-5-180, relating to definitions relative to a central child abuse  
3765 registry;  
3766 (114) Code Section 49-5-281, relating to the bill of rights for foster parents;  
3767 (115) Code Section 49-6-20, relating to the creation of the Council on Aging;  
3768 (116) Code Section 49-6-60, relating to legislative intent for community care and  
3769 services for the elderly;  
3770 (117) Code Section 49-6-61, relating to definitions relative to community care and  
3771 services for the elderly;  
3772 (118) Code Section 49-6-72, relating to definitions relative to the "Georgia Family  
3773 Caregiver Support Act";  
3774 (119) Code Section 49-6-81, relating to the legislative intent of the "Adult Day Center  
3775 for Aging Adults Licensure Act";  
3776 (120) Code Section 49-6-82, relating to definitions relative to the "Adult Day Center for  
3777 Aging Adults Licensure Act";  
3778 (121) Code Section 50-5-136, relating to the powers and authority of the State Use  
3779 Council; and  
3780 (122) Code Section 50-27-55, relating to setoff of debt collection against lottery prizes  
3781 applicable to prizes of \$5,000.00 or more.

### 3782 SECTION 2-3.

3783 The following Code sections of the Official Code of Georgia Annotated are amended by  
3784 replacing "Board of Human Resources" wherever it occurs with "Board of Human Services":  
3785 (1) Code Section 9-10-152, relating to grounds for continuance in any case pending in  
3786 the courts of this state for attendance by a board member at meeting of Board of Human  
3787 Resources;

- 3788 (2) Code Section 17-8-30, relating to grounds for granting of continuances in any case  
3789 pending in the courts of this state for party or party's counsel in attendance as a board  
3790 member at meeting of Board of Human Resources;
- 3791 (3) Code Section 19-11-5, relating to debt to state created by payment of public  
3792 assistance under the "Child Support Recovery Act";
- 3793 (4) Code Section 30-5-6, relating to cooperation of other public agencies with the  
3794 director of the Division of Aging Services of the Department of Human Resources under  
3795 the "Disabled Adults and Elder Persons Protection Act";
- 3796 (5) Code Section 45-10-40, relating to prohibitions on contracting with state institutions;
- 3797 (6) Code Section 45-10-41, relating to penalty for profiting from contracts with state  
3798 institutions generally;
- 3799 (7) Code Section 49-3-6, relating to functions of county departments of family and  
3800 children services;
- 3801 (8) Code Section 49-4-11, relating to award and payment of public assistance to needy  
3802 persons;
- 3803 (9) Code Section 49-4-12, relating to periodic redetermination of public assistance  
3804 awards;
- 3805 (10) Code Section 49-4-54, relating to duties of county departments under the "Aid to  
3806 the Blind Act";
- 3807 (11) Code Section 49-4-181, relating to definitions relative to temporary assistance for  
3808 needy families;
- 3809 (12) Code Section 49-4-183, relating to administration of the temporary assistance for  
3810 needy families program by the Department of Human Resources;
- 3811 (13) Code Section 49-5-12, relating to licensing and inspection of child welfare agencies;  
3812 and
- 3813 (14) Code Section 49-6-62, relating to the establishment of community care unit in the  
3814 Division of Aging Services of the Department of Human Resources.

#### 3815 **SECTION 2-4.**

3816 The following Code sections of the Official Code of Georgia Annotated are amended by  
3817 replacing "commissioner of human resources" wherever it occurs with "commissioner of  
3818 human services":

- 3819 (1) Code Section 19-8-16, relating to investigation by child-placing agency or other  
3820 agent with respect to adoption;
- 3821 (2) Code Section 19-8-23, relating to where records of adoption are kept;
- 3822 (3) Code Section 19-11-9, relating to location of absent parents by the Department of  
3823 Human Resources with respect to the "Child Support Recovery Act";

- 3824 (4) Code Section 19-11-11, relating to issuance of subpoenas by the Department of  
3825 Human Resources with respect to the "Child Support Recovery Act";
- 3826 (5) Code Section 19-11-18, relating to collection procedures with respect to the "Child  
3827 Support Recovery Act";
- 3828 (6) Code Section 19-11-30.6, relating to reciprocal agreements with other states with  
3829 respect to the "Child Support Recovery Act";
- 3830 (7) Code Section 19-11-30.7, relating to construction of the "Child Support Recovery  
3831 Act";
- 3832 (8) Code Section 19-11-30.8, relating to annual reports with respect to the "Child  
3833 Support Recovery Act";
- 3834 (9) Code Section 19-11-30.9, relating to information subject to disclosure with respect  
3835 to the "Child Support Recovery Act";
- 3836 (10) Code Section 19-11-30.11, relating to fee on levied accounts with respect to the  
3837 "Child Support Recovery Act";
- 3838 (11) Code Section 20-1A-61, relating to the members of the Child Care Council;
- 3839 (12) Code Section 28-5-60, relating to creation of the Claims Advisory Board;
- 3840 (13) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
- 3841 (14) Code Section 30-2-7, relating to compensation of workers in the Georgia Industries  
3842 for the Blind;
- 3843 (15) Code Section 31-8-53, relating to duties of the state long-term care ombudsman;
- 3844 (16) Code Section 45-7-7, relating to compensation and allowances of certain public  
3845 officials not to be changed without giving public notice;
- 3846 (17) Code Section 45-9-4, relating to commissioner of administrative services to  
3847 purchase insurance or indemnity contracts insuring or indemnifying state officers,  
3848 officials, or employees against personal liability;
- 3849 (18) Code Section 49-3-3, relating to appointment of the director of each county board  
3850 of family and children services;
- 3851 (19) Code Section 49-3-4, relating to appointment of the staff of each county board of  
3852 family and children services;
- 3853 (20) Code Section 49-4-15.1, relating to examination of financial records in instances of  
3854 alleged fraud by recipients of food stamps and public assistance;
- 3855 (21) Code Section 49-4A-3, relating to the creation of the Department of Juvenile  
3856 Justice;
- 3857 (22) Code Section 49-5-90, relating to definitions relative to emergency protection of  
3858 children in certain institutions;
- 3859 (23) Code Section 49-8-3, relating to definitions relative to "The Economic  
3860 Rehabilitation Act of 1975";

- 3861 (24) Code Section 50-5-69, relating to state purchases without competitive bidding; and  
3862 (25) Code Section 50-5-135, relating to the creation of the State Use Council.

3863 **SECTION 2-5.**

3864 The following Code sections of the Official Code of Georgia Annotated are amended by  
3865 replacing "Office of Aging" or "Office of Aging Section" wherever it occurs with "Division  
3866 of Aging Services":

- 3867 (1) Code Section 10-1-855, relating to referral procedures to provide intervention and  
3868 assistance for elder or disabled persons;  
3869 (2) Code Section 49-6-5, relating to the creation of the Office of Aging Section within  
3870 the Department of Human Resources; and  
3871 (3) Code Section 49-6-20, relating to the creation of the Council on Aging.

3872 **SECTION 2-6.**

3873 Code Section 10-1-395 of the Official Code of Georgia Annotated, relating to the  
3874 appointment and duties of the administrator and the creation of the Consumer Advisory  
3875 Board, is amended by revising subsection (a) as follows:

3876 "(a) The administrator shall be appointed by the Governor and shall serve at his pleasure.  
3877 The office of the administrator shall be attached to the office of the Governor for  
3878 administrative purposes only. The administrator shall perform all functions formerly  
3879 performed by the Consumer Services Unit of the Division of Special Programs of the  
3880 Department of Human Resources (now known as the Department of Human Services)."

3881 **SECTION 2-7.**

3882 Code Section 15-11-63 of the Official Code of Georgia Annotated, relating to commitment  
3883 of child 13 to 17 years of age to custody of Department of Corrections, is amended by  
3884 revising paragraph (2) of subsection (e) as follows:

3885 "(2) During the placement or any extension thereof:

3886 (A) After the expiration of the period provided in subparagraph (C) of paragraph (1) of  
3887 this subsection, the child shall not be released from intensive supervision without the  
3888 written approval of the commissioner of juvenile justice or such commissioner's  
3889 designated deputy;

3890 (B) While in a youth development center, the child may be permitted to participate in all  
3891 youth development center services and programs and shall be eligible to receive special  
3892 medical and treatment services, regardless of the time of confinement in the youth  
3893 development center. After the first six months of confinement in a youth development  
3894 center, a child may be eligible to participate in youth development center sponsored

3895 programs including community work programs and sheltered workshops under the  
3896 general supervision of a youth development center staff outside of the youth development  
3897 center; and, in cooperation and coordination with the Department of Human ~~Resources~~  
3898 Services, the child may be allowed to participate in state sponsored programs for  
3899 evaluation and services under the Division of Rehabilitation Services of the Department  
3900 of Labor and the ~~Division of Mental Health, Developmental Disabilities, and Addictive~~  
3901 ~~Diseases of the Department of Human Resources~~ Department of Behavioral Health;  
3902 (C) The child shall not be discharged from the custody of the Department of Juvenile  
3903 Justice unless a motion therefor is granted by the court, which motion shall not be made  
3904 prior to the expiration of one year of custody; and  
3905 (D) Unless otherwise specified in the order, the Department of Juvenile Justice shall  
3906 report in writing to the court not less than once every six months during the placement  
3907 on the status, adjustment, and progress of the child; and"

#### 3908 SECTION 2-8.

3909 Code Section 19-15-1 of the Official Code of Georgia Annotated, relating to definitions  
3910 relative to child abuse, is amended by revising paragraph (4) as follows:

3911 "(4) 'Child protection professional' means any person who is employed by the state or a  
3912 political subdivision of the state as a law enforcement officer, school teacher, school  
3913 administrator, or school counselor or who is employed to render services to children by  
3914 the Department of Health, Department of Behavioral Health, or the Department of  
3915 Human ~~Resources~~ Services or any county board of health or county department of family  
3916 and children services."

#### 3917 SECTION 2-9.

3918 Code Section 20-1A-3 of the Official Code of Georgia Annotated, relating to the  
3919 commissioner and board of the Department of Early Care and Learning, is amended by  
3920 revising subsection (d) as follows:

3921 "(d) The board shall determine policies and promulgate rules and regulations for the  
3922 operation of the department including:

3923 (1) Functions formerly performed by the Office of School Readiness, including, but not  
3924 limited to, Even Start;

3925 (2) Functions transferred to the department from the Department of Human Resources  
3926 (now known as the Department of Human Services) relating to day-care centers, group  
3927 day-care homes, family day-care homes, and other functions as agreed upon by the  
3928 department and the Department of Human Resources (now known as the Department of  
3929 Human Services) in accordance with Code Section 20-1A-8;

- 3930 (3) Functions transferred to the department from the Georgia Child Care Council  
3931 pursuant to Code Section 20-1A-63; and
- 3932 (4) Functions relating to early childhood education programs transferred from the  
3933 Department of Education by agreement in accordance with Code Section 20-1A-17."

3934 **SECTION 2-10.**

3935 Code Section 20-1A-4 of the Official Code of Georgia Annotated, relating to the powers and  
3936 duties of the Department of Early Care and Learning, is amended by revising paragraph (8)  
3937 as follows:

3938 "(8) To perform any other functions as agreed upon between the department and the  
3939 Department of Human Resources (now known as the Department of Human Services),  
3940 pursuant to Code Section 20-1A-8;"

3941 **SECTION 2-11.**

3942 Code Section 20-1A-8 of the Official Code of Georgia Annotated, relating to the transfer of  
3943 functions, powers, personnel, equipment, and assets from Department of Human Resources  
3944 to the Department of Early Care and Learning, is amended by revising subsections (a) and  
3945 (b) as follows:

3946 "(a) Effective October 1, 2004, the department shall carry out all of the functions and  
3947 exercise all of the powers formerly held by the Department of Human Resources (now  
3948 known as the Department of Human Services) for the regulation and licensure of early care  
3949 and education programs and any other functions as agreed upon by the department and the  
3950 Department of Human Resources. Subject to subsection (c) of this Code section, all  
3951 persons employed by and positions authorized for the Department of Human Resources to  
3952 perform functions relating to the licensure and certification of early care and education  
3953 programs and any other functions as agreed upon by the department and the Department  
3954 of Human Resources on September 30, 2004, shall on October 1, 2004, be transferred to  
3955 the department. All office equipment, furniture, and other assets in possession of the  
3956 Department of Human Resources which are used or held exclusively or principally by  
3957 personnel transferred under this subsection shall be transferred to the department on  
3958 October 1, 2004.

3959 (b) Effective October 1, 2004, notwithstanding the advisory functions of the Georgia Child  
3960 Care Council included in Code Section 20-1A-63, the department shall carry out the  
3961 functions and exercise the powers formerly held by the Georgia Child Care Council under  
3962 former Article 11 of Chapter 5 of Title 49. Subject to subsection (c) of this Code section,  
3963 all persons employed by and positions authorized for the Georgia Child Care Council to  
3964 perform functions relating to the recommendation of measures to improve the quality,

3965 availability, and affordability of child care in this state on September 30, 2004, shall on  
3966 October 1, 2004, be transferred to the department. All office equipment, furniture, and  
3967 other assets in possession of the Georgia Child Care Council or the Department of Human  
3968 Resources, (now known as the Department of Human Services) which are used or held  
3969 exclusively or principally by personnel transferred under this subsection shall be  
3970 transferred to the department on October 1, 2004."

#### 3971 **SECTION 2-12.**

3972 Code Section 20-1A-9 of the Official Code of Georgia Annotated, relating to the authority  
3973 to license and regulate day-care centers, group day-care homes, and family day-care homes  
3974 transferred to the Department of Early Care and Learning, is amended as follows:

3975 "20-1A-9.

3976 The department shall succeed to all rights and responsibilities relating to licensure and  
3977 regulation of day-care centers, group day-care homes, and family day-care homes,  
3978 including such rules, regulations, policies, procedures, and pending and finalized  
3979 administrative orders of the Department of Human Resources (now known as the  
3980 Department of Human Services), the Georgia Child Care Council, and the Office of State  
3981 Administrative Hearings, where applicable, which are in effect on September 30, 2004, and  
3982 which relate to the functions transferred to the department pursuant to Code Section  
3983 20-1A-8. Such rights, responsibilities, licenses issued pursuant to previous law,  
3984 procedures, and orders shall remain in effect until amended, repealed, superseded, or  
3985 nullified by the commissioner. Such rules, regulations, and policies shall remain in effect  
3986 until amended, repealed, superseded, or nullified by the board."

#### 3987 **SECTION 2-13.**

3988 Code Section 24-9-101, of the Official Code of Georgia Annotated, relating to definitions  
3989 relative to use of sign language and intermediary interpreter in administrative and judicial  
3990 proceedings, is amended by revising paragraph (2) as follows:

3991 "(2) 'Department' means the Department of ~~Human Resources~~ Labor."

#### 3992 **SECTION 2-14.**

3993 Chapter 4 of Title 31 of the Official Code of Georgia Annotated, relating to the Council on  
3994 Maternal and Infant Health, is repealed in its entirety and reserved.

**SECTION 2-15.**

Code Section 31-8-51 of the Official Code of Georgia Annotated, relating to definitions relative to the long-term care ombudsman, is amended by adding a new paragraph to read as follows:

"(1.1) 'Department' means the Department of Human Services."

**SECTION 2-16.**

Code Section 31-8-82 of the Official Code of Georgia Annotated, relating to reporting abuse or exploitation of a resident in a long-term care facility, is amended by revising subsection (a) as follows:

"(a) Any:

(1) Administrator, manager, physician, nurse, nurse's aide, orderly, or other employee in a hospital or facility;

(2) Medical examiner, dentist, osteopath, optometrist, chiropractor, podiatrist, social worker, coroner, clergyman, police officer, pharmacist, physical therapist, or psychologist; or

(3) Employee of a public or private agency engaged in professional services to residents or responsible for inspection of long-term care facilities

who has knowledge that any resident or former resident has been abused or exploited while residing in a long-term care facility shall immediately make a report as described in subsection (c) of this Code section by telephone or in person to the department. In the event that an immediate report to the department is not possible, the person shall make the report to the appropriate law enforcement agency. Such person shall also make a written report to the Department of Human ~~Resources~~ Services within 24 hours after making the initial report."

**SECTION 2-17.**

Code Section 34-15-2 of the Official Code of Georgia Annotated, relating to the July 2001 transfer of the Division of Rehabilitation Services to the Department of Labor, is amended by revising subsection (a) as follows:

"(a) The Division of Rehabilitation Services within the Department of Human Resources (now known as the Department of Human Services), including the disability adjudication section and the Roosevelt Warm Springs Institute for Rehabilitation, is transferred to the Department of Labor on July 1, 2001, and that division shall become the Division of Rehabilitation Services of the Department of Labor on July 1, 2001. The functions, duties, programs, institutions, and authority of the Division of Rehabilitation Services which were vested in the Department of Human Resources on June 30, 2001, are vested in the

4030 Department of Labor effective July 1, 2001. The division shall be administered by a  
4031 director appointed by the Commissioner. The policy-making functions which were vested  
4032 in the Board of Human Resources (now known as the Board of Human Services) or the  
4033 Department of Human Resources pertaining to the Division of Rehabilitation Services are  
4034 vested in the Commissioner of Labor effective July 1, 2001."

#### 4035 SECTION 2-18.

4036 Code Section 40-2-86.21 of the Official Code of Georgia Annotated, relating to special  
4037 license plates promoting certain beneficial projects and supporting certain worthy agencies,  
4038 funds, or nonprofit corporations, is amended by revising paragraphs (14) and (33) of  
4039 subsection (o) as follows:

4040 "(14) A special license plate for the Thanks Mom and Dad Fund. The funds raised by the  
4041 sale of this special license plate shall be disbursed to the Department of Human ~~Resources~~  
4042 Services to address the key needs of the state's older population or a nonprofit corporation  
4043 organized to serve the needs of the state's older population."

4044 "(33) A special license plate supporting programs for the treatment of autism. The funds  
4045 raised by the sale of this special license plate shall be disbursed to the Department of  
4046 Human ~~Resources~~ Services for the support of programs for the treatment of autism in  
4047 Georgia."

#### 4048 SECTION 2-19.

4049 Code Section 43-26-51 of the Official Code of Georgia Annotated, relating to the purpose  
4050 of the "Georgia Qualified Medication Aide Act," is amended as follows:

4051 "43-26-51.

4052 The purpose of this article is to protect, promote, and preserve the public health, safety, and  
4053 welfare through the delegation of certain activities performed by registered professional  
4054 nurses and licensed practical nurses to persons who are certified as qualified medication  
4055 aides and who are employed by and working in community living arrangements established  
4056 by the Department of Human ~~Resources~~ Services pursuant to ~~paragraphs (15) and (16)~~  
4057 paragraph (11) of subsection (b) of Code Section ~~37-1-20~~ 49-2-6."

#### 4058 SECTION 2-20.

4059 Code Section 43-26-52 of the Official Code of Georgia Annotated, relating to definitions  
4060 relative to the "Georgia Qualified Medication Aide Act," is amended by revising paragraph  
4061 (3) as follows:

4062 "(3) 'Community living arrangement' means any residence, whether operated for profit or  
4063 not for profit, which undertakes through its ownership or management to provide or

4064 arrange for the provision of daily personal services, support, care, or treatment exclusively  
4065 for two or more adults who are not related to the owner or administrator by blood or  
4066 marriage which is established by the Department of Human ~~Resources~~ Services pursuant  
4067 to paragraph ~~(16)~~ (11) of subsection (b) of Code Section ~~37-1-20~~ 49-2-6 and whose  
4068 services are financially supported, in whole or part, by funds authorized through the  
4069 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~  
4070 ~~Department of Human Resources~~ Department of Human Services. A community living  
4071 arrangement is also referred to as a 'residence.'"

#### 4072 **SECTION 2-21.**

4073 Code Section 45-20-90 of the Official Code of Georgia Annotated, relating to definitions  
4074 relative to random drug testing of public employees in high-risk jobs, is amended by revising  
4075 paragraph (2) as follows:

4076 "(2) 'Established drug test' means the collection and testing of bodily fluids administered  
4077 in a manner equivalent to that required by the Mandatory Guidelines for Federal Workplace  
4078 Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as amended) or  
4079 other professionally valid procedures approved by the ~~commissioner of human resources~~  
4080 State Personnel Board."

#### 4081 **SECTION 2-22.**

4082 Code Section 46-1-5 of the Official Code of Georgia Annotated, relating to duties of the  
4083 Department of Human Resources with regard to assistance to low or fixed income consumers  
4084 of gas and electric service, is amended as follows:

4085 "46-1-5.

4086 By March 2, 1982, the Department of Human Resources (now known as the Department  
4087 of Human Services) shall develop a program to identify those low or fixed income  
4088 consumers of gas and electric utility service who, in the department's opinion, should  
4089 benefit from public assistance in paying their bills for gas and electric service. The  
4090 department shall also establish an efficient and economical method for distributing to such  
4091 consumers all public assistance funds which will be made available, whether by  
4092 appropriations of state or federal funds, grants, or otherwise. All gas and electric utilities  
4093 shall cooperate fully with the department in developing and implementing its program.  
4094 Nothing in this Code section shall limit the commission's authority to order regulatory  
4095 alternatives which assist low or fixed income ratepayers."

**SECTION 2-23.**

Code Section 48-7-161 of the Official Code of Georgia Annotated, relating to definitions relative to setoff debt collection, is amended as follows:

"48-7-161.

As used in this article, the term:

(1) 'Claimant agency' means and includes, in the order of priority set forth below:

(A) The Department of Human ~~Resources~~ Services and the Department of Behavioral Health with respect to collection of debts under ~~Chapter 9 of Title 37~~, Article 1 of Chapter 11 of Title 19, ~~and~~ Code Section 49-4-15, and Chapter 9 of Title 37;

(B) The Georgia Student Finance Authority with respect to the collection of debts arising under Part 3 of Article 7 of Chapter 3 of Title 20;

(C) The Georgia Higher Education Assistance Corporation with respect to the collection of debts arising under Part 2 of Article 7 of Chapter 3 of Title 20;

(D) The State Medical Education Board with respect to the collection of debts arising under Part 6 of Article 7 of Chapter 3 of Title 20;

(E) The Department of Labor with respect to the collection of debts arising under Code Sections 34-8-254 and 34-8-255 and Article 5 of Chapter 8 of Title 34, with the exception of Code Sections 34-8-158 through 34-8-161; provided, however, that the Department of Labor establishes that the debtor has been afforded required due process rights by such Department of Labor with respect to the debt and all reasonable collection efforts have been exhausted;

(F) The Department of Corrections with respect to probation fees arising under Code Section 42-8-34 and restitution or reparation ordered by a court as a part of the sentence imposed on a person convicted of a crime who is in the legal custody of the department;

(G) The State Board of Pardons and Paroles with respect to restitution imposed on a person convicted of a crime and subject to the jurisdiction of the board; and

(H) The Department of Juvenile Justice with respect to restitution imposed on a juvenile for a delinquent act which would constitute a crime if committed by an adult.

(2) 'Debt' means any liquidated sum due and owing any claimant agency, which sum has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for the sum, any sum which is due and owing any person and is enforceable by the Department of Human ~~Resources~~ Services pursuant to subsection (b) of Code Section 19-11-8, or any sum of restitution or reparation due pursuant to a sentence imposed on a person convicted of a crime and sentenced to restitution or reparation and probation.

4131 (3) 'Debtor' means any individual owing money to or having a delinquent account with  
4132 any claimant agency, which obligation has not been adjudicated as satisfied by court  
4133 order, set aside by court order, or discharged in bankruptcy.

4134 (4) 'Refund' means the Georgia income tax refund which the department determines to  
4135 be due any individual taxpayer."

4136 **SECTION 2-24.**

4137 Code Section 49-4A-5 of the Official Code of Georgia Annotated, relating to transfer of  
4138 functions and employees of the Division of Youth Services, is amended by revising  
4139 subsection (b) as follows:

4140 "(b) Any employees of the Department of Juvenile Justice who became so employed by  
4141 virtue of their transfer from the Division of Youth Services of the Department of Human  
4142 Resources (now known as the Department of Human Services) on June 30, 1992, shall  
4143 retain their compensation and benefits and such may not be reduced. Transferred  
4144 employees who were subject to the State Merit System of Personnel Administration shall  
4145 retain all existing rights under the State Merit System of Personnel Administration.  
4146 Retirement rights of such transferred employees existing under the Employees' Retirement  
4147 System of Georgia or other public retirement systems on July 1, 1992, shall not be impaired  
4148 or interrupted by the transfer of such employees and membership in any such retirement  
4149 system shall continue in the same status possessed by the transferred employees on June  
4150 30, 1992. Accrued annual and sick leave possessed by said employees on June 30, 1992,  
4151 shall be retained by said employees as employees of the department."

4152 **SECTION 2-25.**

4153 Code Section 49-5-60 of the Official Code of Georgia Annotated, relating to definitions  
4154 relative to employees' record checks for day-care centers, is amended by revising paragraph  
4155 (1) as follows:

4156 "(1) 'Center' means a ~~child-caring institution or child-placing agency~~ child welfare  
4157 agency, as defined in subsection (a) of Code Section 49-5-12, which is required to be  
4158 licensed or registered under Article 1 of this chapter."

4159 **SECTION 2-26.**

4160 Code Section 49-5-69.1 of the Official Code of Georgia Annotated, relating to fingerprint  
4161 and preliminary records check for foster homes, is amended as follows:

4162 "49-5-69.1.

4163 (a) No licensed ~~child-placing agency~~ child welfare agency, as defined in ~~this chapter~~  
4164 subsection (a) of Code Section 49-5-12, shall place a child in a foster care home unless the

4165 foster parent or parents of the home and other adult persons that reside in the home or  
4166 provide care to children placed in the home have received a satisfactory preliminary  
4167 records check determination. Additionally, no child shall continue to be placed in such  
4168 foster care home unless the foster parent or parents also subsequently receive a satisfactory  
4169 fingerprint records check determination. A ~~child-placing agency~~ child welfare agency or  
4170 any applicant for a license for such an agency shall be required to submit to the department  
4171 a preliminary records check application and a records check application for the foster  
4172 parent or parents of any foster care home used by the agency and a preliminary records  
4173 check application for any other adult persons that reside in the home or provide care to  
4174 children placed in the home. In lieu of such applications, the agency or license applicant  
4175 may submit evidence, satisfactory to the department, that within the immediately preceding  
4176 12 months such foster parent or parents or other adult persons have received a satisfactory  
4177 fingerprint records check determination or a satisfactory preliminary records check  
4178 determination.

4179 (b) After receiving or obtaining the fingerprint records check determinations or the  
4180 preliminary records check determinations, the department shall notify in writing the agency  
4181 or license applicant as to each person for whom an application was received regarding  
4182 whether the department's determinations were satisfactory or unsatisfactory. If any such  
4183 determinations are unsatisfactory, such homes shall not be used by the ~~child-placing agency~~  
4184 child welfare agency as foster care homes.

4185 (c) The department shall have the authority to take any of the actions enumerated in  
4186 subsection (c) of Code Section ~~31-2-6~~ 49-2-17 if a licensed ~~child-placing agency~~ child  
4187 welfare agency or an applicant for such a license violates any provision of this Code  
4188 section.

4189 (d) An executive director of a ~~child-placing agency~~ child welfare agency that uses a foster  
4190 care home with a foster parent or parents or other adult persons referenced in this Code  
4191 section whom the executive director knows or should reasonably know to have a criminal  
4192 record shall be guilty of a misdemeanor.

4193 (e) In addition to any other requirement established by law, the submission of fingerprints  
4194 shall be a prerequisite to the issuance of a license or authorization for the operation of a  
4195 foster home or to serve as foster parents as provided in this article. Such fingerprints shall  
4196 be used for the purposes of fingerprint checks by the Georgia Crime Information Center  
4197 and the Federal Bureau of Investigation."

**SECTION 2-27.**

Code Section 49-6-84 of the Official Code of Georgia Annotated, relating to the authority of the Department of Human Resources to promulgate rules and regulations under the "Adult Day Center for Aging Adults Licensure Act," is amended as follows:

"49-6-84.

The department is authorized to promulgate rules and regulations to implement this article utilizing the public rule-making process to elicit input from consumers, providers, and advocates. The department is further authorized to issue, deny, suspend, or revoke licenses or take other enforcement actions against licensees or applicants as provided in Code Section ~~31-2-6~~ 49-2-17. All rules and regulations and any enforcement actions initiated by the department shall comply with the requirements of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

**SECTION 2-28.**

Code Section 49-8-4 of the Official Code of Georgia Annotated, relating to administration of "The Economic Rehabilitation Act of 1975," is amended by revising subsection (a) as follows:

"(a) For purposes of administration, responsibility for the coordination of community services and fiscal accountability shall be determined by the commissioner of human ~~resources~~ services.

**SECTION 2-29.**

Code Section 50-5-136 of the Official Code of Georgia Annotated, relating to the powers and authority of the State Use Council, is amended by revising paragraph (4) of subsection (b) as follows:

"(4) To oversee and assist in the development of guidelines for the certification of community based rehabilitation programs and training centers in the State of Georgia. The intent of these guidelines shall be to evaluate the qualifications and capabilities of community based rehabilitation programs and training centers interested in certification; to determine criteria for quality, efficiency, timeliness, and cost effectiveness in the production of goods, wares, merchandise, and services to be procured under the state use plan and purchased by the State of Georgia; and to establish a certification process which shall enable community based rehabilitation programs and training centers qualified under this process to compete in procurement activities provided for by this part. All community based rehabilitation programs and training centers which are certified by the commissioner of human resources (now known as the commissioner of human services for these

4232 purposes) as of February 8, 1994, shall not have to undergo the certification evaluation and  
4233 approval process until 24 months from February 8, 1994;"

4234 PART III

4235 Department of Behavioral Health.

4236 SECTION 3-1.

4237 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by  
4238 revising Chapter 1 and Article 1 of Chapter 2, relating to general provisions and  
4239 administration of mental health, developmental disabilities, addictive diseases, and other  
4240 disability services, respectively, as follows:

4241 "CHAPTER 1

4242 ARTICLE 1

4243 37-1-1.

4244 As used in this title, the term:

4245 (1) 'Addictive disease' means ~~the abuse of, addiction to, or dependence upon alcohol or~~  
4246 ~~other drugs and includes substance abuse~~ a chronic, often relapsing, brain disease that  
4247 causes compulsive alcohol or drug seeking and use despite harmful consequences to the  
4248 individual who is addicted and to those around him or her.

4249 (2) 'Board' means the Board of ~~Human Resources~~ Behavioral Health.

4250 (3) 'Commissioner' means the commissioner of ~~human resources~~ behavioral health.

4251 (4) 'Community service board' means a public mental health, developmental disabilities,  
4252 and addictive diseases board established pursuant to Code Section 37-2-6.

4253 (5) 'Consumer' means a natural person who has been or is a recipient of disability  
4254 services as defined in Code Section 37-2-2.

4255 (6) 'County board of health' means a county board of health established in accordance  
4256 with Chapter 3 of Title 31 and includes its duly authorized agents.

4257 (7) 'Department' means the Department of ~~Human Resources~~ Behavioral Health and  
4258 includes its duly authorized agents and designees.

4259 ~~(8) 'Division' means the Division of Mental Health, Developmental Disabilities, and~~  
4260 ~~Addictive Diseases.~~

4261 ~~(9)~~(8) 'Peace officer' means any federal, city, or county police officer, any officer of the  
4262 Georgia State Patrol, or any sheriff or deputy sheriff.

4263        ~~(10)~~(9) 'Penal offense' means a violation of a law of the United States, this state, or a  
 4264        political subdivision thereof for which the offender may be confined in a state prison or  
 4265        a city or county jail or any other penal institution.

4266        ~~(11)~~(10) 'Physician' means any person duly authorized to practice medicine in this state  
 4267        under Chapter 34 of Title 43.

4268        ~~(12)~~(11) 'Psychologist' means any person authorized under the laws of this state to  
 4269        practice as a licensed psychologist as set forth in paragraph (3) of Code Section 43-39-1.

4270        ~~(13)~~(12) 'Regional board' means a regional ~~mental health, mental retardation, and~~  
 4271        ~~substance abuse~~ board established in accordance with Code Section 37-2-4.1 as that Code  
 4272        section existed on June 30, 2002.

4273        ~~(14)~~(13) 'Regional coordinator' means an employee of the department who acts as the  
 4274        department's agent and designee to manage community ~~and hospital~~ services for  
 4275        consumers of disability services within a mental health, developmental disabilities, and  
 4276        addictive diseases region established in accordance with Code Section 37-2-3.

4277        ~~(15)~~(14) 'Regional office' means ~~a Division of Mental Health, Developmental~~  
 4278        ~~Disabilities, and Addictive Diseases of the Department of Human Resources~~ an office  
 4279        created pursuant to Code Section 37-2-4.1. Such office shall serve as the entity for the  
 4280        administration of disability services in a region.

4281        ~~(16)~~(15) 'Regional planning board' means a ~~mental health, developmental disabilities,~~  
 4282        ~~and addictive diseases~~ planning board established in accordance with Code Section  
 4283        37-2-4.1.

4284        ~~(17)~~(16) 'Regional services administrator' means an employee of the department who,  
 4285        under the supervision of the regional coordinator, manages the purchase or authorization  
 4286        of services, or both, for consumers of disability services, the assessment and coordination  
 4287        of services, and ongoing monitoring and evaluation of services provided within a ~~mental~~  
 4288        ~~health, developmental disabilities, and addictive diseases~~ region established in  
 4289        accordance with Code Section 37-2-3.

4290        ~~(18)~~(17) 'Regional state hospital administrator' means the chief administrative officer of  
 4291        a state owned or state operated hospital and the state owned or operated community  
 4292        programs in a region. The regional state hospital administrator, ~~under the supervision of~~  
 4293        ~~the regional coordinator,~~ has overall management responsibility for the regional state  
 4294        hospital and manages services provided by employees of the regional state hospital and  
 4295        employees of state owned or operated community programs within a mental health,  
 4296        developmental disabilities, and addictive diseases region established in accordance with  
 4297        Code Section 37-2-3.

4298        ~~(19)~~(18) 'Resident' means a person who is a legal resident of the State of Georgia.

4299 37-1-2.

4300 (a) The General Assembly finds that the state has a need to continually improve its system  
 4301 for providing effective, efficient, and quality mental health, developmental disability, and  
 4302 addictive disease services. ~~The General Assembly also finds that the needs of the publicly~~  
 4303 ~~funded mental health, developmental disability, and addictive disease system and the state~~  
 4304 ~~can best be met through reorganizing the regional mental health, mental retardation, and~~  
 4305 ~~substance abuse boards and certain functions of the Department of Human Resources.~~  
 4306 Further, the General Assembly finds that a comprehensive range of quality services and  
 4307 opportunities is vitally important to the existence and well-being of individuals with mental  
 4308 health, developmental disability, or addictive disease needs and their families. The General  
 4309 Assembly further finds that the state has an obligation and a responsibility to develop and  
 4310 implement planning and service delivery systems which focus on a core set of consumer  
 4311 oriented, community based values and principles which include, but are not limited to, the  
 4312 following:

- 4313 (1) Consumers and families should have choices about services and providers and should  
 4314 have substantive input into the planning and delivery of all services;
- 4315 (2) A single point of accountability should exist for fiscal, service, and administrative  
 4316 issues to ensure better coordination of services among all programs and providers and to  
 4317 promote cost-effective, efficient service delivery and administration;
- 4318 (3) The system should be appropriately comprehensive and adaptive to allow consumers  
 4319 and their families to access the services they desire and need;
- 4320 (4) Public programs are the foundation of the service planning and delivery system and  
 4321 they should be valued and nurtured; at the same time, while assuring comparable  
 4322 standards of quality, private sector involvement should be increased to allow for  
 4323 expanded consumer choice and improved cost effectiveness;
- 4324 (5) Planning should ~~reside~~ begin at the local level, ~~with the primary authority vested in~~  
 4325 and include local government, consumers, families, advocates, and other interested local  
 4326 parties;
- 4327 (6) The system should ensure that the needs of consumers who are most in need are met  
 4328 at the appropriate service levels; at the same time, prevention strategies should be  
 4329 emphasized for those disabilities which are known to be preventable;
- 4330 (7) The system should be designed to provide the highest quality of services utilizing  
 4331 flexibility in funding, incentives, and outcome evaluation techniques which reinforce  
 4332 quality, accountability, efficiency, and consumer satisfaction;
- 4333 (8) The functions of service planning, coordination, contracting, resource allocation, and  
 4334 consumer assessment should be separated from the actual treatment, habilitation, and  
 4335 prevention services provided by contractors;

4336 (9) Consumers and families should have a single, community based point of entry into  
4337 the system;

4338 (10) Consumers, staff, providers, and regional planning board and community service  
4339 board members should receive ongoing training and education and should have access  
4340 to key management resources such as information systems and technical and professional  
4341 support services; and

4342 (11) The department is responsible for ensuring the appropriate use of state, federal, and  
4343 other funds to provide quality services for individuals with mental health, developmental  
4344 disabilities, or addictive disease needs who are served by the public system and to protect  
4345 consumers of these services from abuse and maltreatment.

4346 (b) Local governments, specifically county governing authorities, have provided  
4347 outstanding leadership and support for mental health, developmental disability, and  
4348 addictive disease programs, and the General Assembly finds that their investments, both  
4349 personal and capital, should be valued and utilized in any improved system. As such, the  
4350 state and any new governing structure should take special precautions to ensure that the  
4351 county governing authorities have an expanded level of input into decision making and  
4352 resource allocation and that any services or programs should continue to use and expand  
4353 their use of county facilities and resources wherever appropriate and possible.

4354 (c) The purpose of this chapter and Chapter 2 of this title is to provide for a comprehensive  
4355 and improved mental health, developmental disability, and addictive disease services  
4356 planning and delivery system in this state which will develop and promote the essential  
4357 public interests of the state and its citizens. The provisions of this chapter and Chapter 2  
4358 of this title shall be liberally construed to achieve their purposes.

4359 37-1-3.

4360 (a) There is created the Board of Behavioral Health which shall establish the general  
4361 policy to be followed by the Department of Behavioral Health. The powers, functions, and  
4362 duties of the Board of Human Resources as they existed on June 30, 2009, with regard to  
4363 the Division of Mental Health, Developmental Disabilities, and Addictive Diseases are  
4364 transferred to the Board of Behavioral Health effective July 1, 2009. The board shall  
4365 consist of nine members appointed by the Governor and confirmed by the Senate.

4366 (b) The Governor shall designate the initial terms of the members of the board as follows:  
4367 three members shall be appointed for one year; three members shall be appointed for two  
4368 years; and three members shall be appointed for three years. Thereafter, all succeeding  
4369 appointments shall be for three-year terms from the expiration of the previous term.

4370 (c) Vacancies in office shall be filled by appointment by the Governor in the same manner  
4371 as the appointment to the position on the board which becomes vacant. An appointment

4372 to fill a vacancy other than by expiration of a term of office shall be for the balance of the  
4373 unexpired term.

4374 (d) Members of the board may be removed from office under the same conditions for  
4375 removal from office of members of professional licensing boards provided in Code Section  
4376 43-1-17.

4377 (e) There shall be a chairperson of the board elected by and from the membership of the  
4378 board who shall be the presiding officer of the board.

4379 (f) The members of the board shall receive a per diem allowance and expenses as shall be  
4380 set and approved by the Office of Planning and Budget in conformance with rates and  
4381 allowances set for members of other state boards.

4382 37-1-4.

4383 (a) There is created a Department of Behavioral Health. The powers, functions, and duties  
4384 of the Department of Human Resources as they existed on June 30, 2009, relating to the  
4385 Division of Mental Health, Developmental Disabilities, and Addictive Diseases are  
4386 transferred to the Department of Behavioral Health effective July 1, 2009.

4387 (b) There is created the position of commissioner of behavioral health. The commissioner  
4388 shall be the chief administrative officer of the department and be both appointed and  
4389 removed by the board, subject to the approval of the Governor. Subject to the general  
4390 policy established by the board, the commissioner shall supervise, direct, account for,  
4391 organize, plan, administer, and execute the functions vested in the department.

4392 (c) There shall be created in the department such divisions as may be found necessary for  
4393 its effective operation. The commissioner shall have the power to allocate and reallocate  
4394 functions among the divisions within the department.

4395 37-1-5.

4396 (a) The Department of Behavioral Health shall succeed to all rules, regulations, policies,  
4397 procedures, and administrative orders of the Department of Human Resources that are in  
4398 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
4399 relate to the functions transferred to the Department of Behavioral Health pursuant to Code  
4400 Section 37-1-4 and shall further succeed to any rights, privileges, entitlements, obligations,  
4401 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
4402 which relate to the functions transferred to the Department of Behavioral Health pursuant  
4403 to Code Section 37-1-4. Such rules, regulations, policies, procedures, and administrative  
4404 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
4405 Department of Behavioral Health by proper authority or as otherwise provided by law.

(b) The rights, privileges, entitlements, and duties of parties to contracts, leases, agreements, and other transactions entered into before July 1, 2009, by the Department of Human Resources which relate to the functions transferred to the Department of Behavioral Health pursuant to Code Section 37-1-4 shall continue to exist; and none of these rights, privileges, entitlements, and duties are impaired or diminished by reason of the transfer of the functions to the Department of Behavioral Health. In all such instances, the Department of Behavioral Health shall be substituted for the Department of Human Resources, and the Department of Behavioral Health shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.

(c) All persons employed by the Department of Human Resources in capacities which relate to the functions transferred to the Department of Behavioral Health pursuant to Code Section 37-1-4 on June 30, 2009, shall, on July 1, 2009, become employees of the Department of Behavioral Health in similar capacities, as determined by the commissioner of behavioral health. Such employees shall be subject to the employment practices and policies of the Department of Behavioral Health on and after July 1, 2009, but the compensation and benefits of such transferred employees shall not be reduced as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and thereby under the State Merit System of Personnel Administration and who are transferred to the department shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, 2009, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by said employees on June 30, 2009, shall be retained by said employees as employees of the Department of Behavioral Health.

(d) On July 1, 2009, the Department of Behavioral Health shall receive custody of the state owned real property in the custody of the Department of Human Resources on June 30, 2009, and which pertains to the functions transferred to the Department of Behavioral Health pursuant to Code Section 37-1-4.

## ARTICLE 2

37-1-20.

~~(a) The Division of Mental Health, Developmental Disabilities, and Addictive Diseases shall be a division of the department and shall be managed by a director whose qualifications meet standards set by the board.~~

4441 (b) The department, ~~through the division~~, shall:

4442 (1) Establish, administer, and supervise the state programs for mental health,  
4443 developmental disabilities, and addictive diseases;

4444 (2) Direct, supervise, and control the medical and physical care; and treatment; ~~and~~  
4445 ~~rehabilitation~~; recovery; and social, employment, housing, and community supports and  
4446 services based on single or co-occurring diagnoses provided by the institutions,  
4447 contractors, and programs under its control, management, or supervision;

4448 (3) Plan for and implement the coordination of mental health, developmental disability,  
4449 and addictive disease services with physical health services, and the prevention of any of  
4450 these diseases or conditions, and develop and promulgate rules and regulations to require  
4451 that all health services be coordinated and that the public and private providers of any of  
4452 these services that receive state support notify other providers of services to the same  
4453 patients of the conditions, treatment, and medication regimens each provider is  
4454 prescribing and delivering;

4455 (4) Ensure that providers of mental health, developmental disability, or addictive disease  
4456 services coordinate with providers of primary and specialty health care so that treatment  
4457 of conditions of the brain and the body can be integrated to promote recovery, health, and  
4458 well-being;

4459 ~~(3)~~(5) Have authority to contract for services with community service boards, private  
4460 agencies, and other public entities for the provision of services within a service area so  
4461 as to provide an adequate array of services; and choice of providers for consumers; and  
4462 to comply with the applicable federal laws, rules, and regulations related to public or  
4463 private hospitals; hospital authorities; medical schools and training and educational  
4464 institutions; departments and agencies of this state; county or municipal governments;  
4465 any person, partnership, corporation, or association, whether public or private; and the  
4466 United States government or the government of any other state;

4467 ~~(4)~~(6) Establish and support programs for the training of professional and technical  
4468 personnel as well as regional planning boards and community service boards;

4469 ~~(5)~~(7) Have authority to conduct research into the causes and treatment of disability and  
4470 into the means of effectively promoting mental health and addictive disease recovery;

4471 ~~(6)~~(8) Assign specific responsibility to one or more units of the ~~division~~ department for  
4472 the development of a disability prevention program. The objectives of such program  
4473 shall include, but are not limited to, monitoring of completed and ongoing research  
4474 related to the prevention of disability, implementation of programs known to be  
4475 preventive, and testing, where practical, of those measures having a substantive potential  
4476 for the prevention of disability;

4477 ~~(7)~~(9) Establish a system for regional administration of mental health, developmental  
 4478 disability, and addictive disease services in institutions and in the community ~~under the~~  
 4479 ~~supervision of a regional coordinator;~~

4480 ~~(8)~~(10) Make and administer budget allocations to regional offices ~~of the division~~  
 4481 established by the board pursuant to Code Section 37-2-4.1 to fund the operation of  
 4482 mental health, developmental disabilities, and addictive diseases facilities and programs;

4483 ~~(9)~~(11) Coordinate in consultation with providers, professionals, and other experts the  
 4484 development of appropriate outcome measures for client centered service delivery  
 4485 systems;

4486 ~~(10)~~(12) Establish, operate, supervise, and staff programs and facilities for the treatment  
 4487 of disabilities throughout this state;

4488 ~~(11)~~(13) Disseminate information about available services and the facilities through  
 4489 which such services may be obtained;

4490 ~~(12)~~(14) Supervise the regional office's exercise of its responsibility and authority  
 4491 concerning funding and delivery of disability services;

4492 ~~(13)~~(15) Supervise the regional offices concerning the receipt and administration of  
 4493 grants, gifts, moneys, and donations for purposes pertaining to mental health,  
 4494 developmental disabilities, and addictive diseases;

4495 ~~(14)~~(16) Supervise the ~~regional offices concerning making~~ administration of contracts  
 4496 with any hospital, community service board, or any public or private providers without  
 4497 regard to regional or state boundaries for the provision of disability services and in  
 4498 making and entering into all contracts necessary or incidental to the performance of the  
 4499 duties and functions of the ~~division~~ department and the regional offices;

4500 ~~(15)~~(17) Regulate the delivery of care, including behavioral interventions and medication  
 4501 administration by licensed staff, or certified staff as determined by the ~~division~~  
 4502 department, within residential settings serving only persons who are receiving services  
 4503 authorized or financed, in whole or in part, by the ~~division~~; department;

4504 ~~(16)~~ Classify 'community living arrangements' and 'host homes' for persons whose  
 4505 services are financially supported, in whole or in part, by funds authorized through the  
 4506 Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the  
 4507 Department of Human Resources. As used in this Code section, the term:

4508 (A) 'Community living arrangement' means any residence, whether operated for profit  
 4509 or not, which undertakes through its ownership or management to provide or arrange  
 4510 for the provision of housing, food, one or more personal services, supports, care, or  
 4511 treatment exclusively for two or more persons who are not related to the owner or  
 4512 administrator of the residence by blood or marriage.

~~(B) 'Host home' means a private residence in a residential area in which the occupant owner or lessee provides housing and provides or arranges for the provision of food, one or more personal services, supports, care, or treatment exclusively for one or two persons who are not related to the occupant owner or lessee by blood or marriage. A host home shall be occupied by the owner or lessee, who shall not be an employee of the same community provider which provides the host home services by contract with the division. The division shall approve and enter into agreements with community providers which, in turn, contract with host homes. The occupant owner or lessee shall not be the guardian of any person served or of their property nor the agent in such person's advance directive for health care. The placement determination for each person placed in a host home shall be made according to such person's choice as well as the individual needs of such person in accordance with the requirements of Code Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person; and~~

~~(17) Provide guidelines for and oversight of host homes, which may include, but not be limited to, criteria to become a host home, requirements relating to physical plants and supports, placement procedures, and ongoing oversight requirements.~~

~~(c) The department shall:~~

~~(1)(18) Establish a unit of the department which shall receive and consider complaints from individuals receiving services, make recommendations to the director of the division commissioner regarding such complaints, and ensure that the rights of individuals receiving services are fully protected;~~

~~(19) With respect to housing opportunities for persons with mental illness and co-occurring disorders:~~

~~(A) Coordinate the department's programs and services with other state agencies and housing providers;~~

~~(B) Facilitate partnerships with local communities;~~

~~(C) Educate the public on the need for supportive housing;~~

~~(D) Collect information on the need for supportive housing and monitor the benefit of such housing; and~~

~~(E) Identify and determine best practices for the provision of services connected to housing;~~

~~(2)(20) Exercise all powers and duties provided for in this title or which may be deemed necessary to effectuate the purposes of this title; and~~

~~(3)(21) Assign specific responsibility to one or more units of the division department for the development of programs designed to serve disabled infants, children, and youth. To the extent practicable, such units shall cooperate with the Georgia Department of Education and the University System of Georgia in developing such programs; and~~

~~(4) Classify and license community living arrangements, as defined in paragraph (16) of subsection (b) of this Code section, in accordance with the rules and regulations promulgated by the department for the licensing of community living arrangements and the enforcement of licensing requirements. To be eligible for licensing as a community living arrangement, the residence and services provided must be integrated within the local community. All community living arrangements licensed by the department shall be subject to the provisions of Code Sections 31-2-6 and 31-7-2.2. No person, business entity, corporation, or association, whether operated for profit or not for profit, may operate a community living arrangement without first obtaining a license or provisional license from the department. A license issued under this article is not assignable or transferable.~~

37-1-21.

(a) The department is designated and empowered as the agency of this state responsible for supervision and administrative control of: state facilities for the treatment of mental illness or the habilitation and treatment of individuals with developmental disabilities; ~~state hospitals for the treatment of tubercular patients;~~ programs for the care, custody, and treatment of addictive disease; and other facilities, institutions, or programs which now or hereafter come under the supervision and administrative control of the department. With respect to all such facilities, institutions, or programs the department shall have the following powers and duties:

(1) To create all necessary offices, appoint and remove all officers of such facilities, institutions, or programs, prescribe and change the duties of such officers from time to time, and fix their salaries as provided for by the pay plan covering positions under the State Merit System of Personnel Administration and in accordance with rules and regulations of the State Personnel Board, except that the commissioner shall not be subject to the State Merit System of Personnel Administration or the rules and regulations of the State Personnel Board. The department shall discharge and cause to be prosecuted any officer or other person who shall assault any patient in any of such facilities or institutions or who shall knowingly use toward any such patient any other or greater force than the occasion may require;

(2) To refuse or accept and hold in trust for any such facility, institution, or program any grant or devise of land or bequest or donation of money or other property for the particular use specified or, if no use is specified, for the general use of such facility, institution, or program;

(3) To bring suit in its name for any claims which any such facility or institution may have, however arising;

(4) To appoint police of such facilities, institutions, or programs who are authorized, while on the grounds or in the buildings of the respective facilities, institutions, or programs to make arrests with the same authority, power, privilege, and duties as the sheriffs of the respective counties in which such facilities, institutions, or programs are situated. If because of the contagious or infectious nature of the disease of persons arrested facilities are not available for their detention, such police shall be authorized to confine such persons within the respective facilities, institutions, or programs pending trial as provided in other cases. After trial and conviction of any such person, he or she shall be sentenced to serve his or her term of sentence in the secured ward of the facility, institution, or program; and

(5) To have full authority to receive patients ordered admitted to such facilities, institutions, or programs pursuant to any law, to receive any voluntary patients, to discharge such patients pursuant to law, to contract with patients or other persons acting on behalf of patients or legally responsible therefor, and in general to exercise any power or function with respect to patients provided by law. It is the intent of the General Assembly to provide always the highest quality of diagnosis, treatment, custody, and care consistent with medical, therapeutic, and habilitative evidence based practice and knowledge. It is the further intent of the General Assembly that the powers and duties of the department with respect to patients shall be administered by persons properly trained professionally for the exercise of their duties, consistent with the intention expressed in this Code section.

(b) The board is empowered to prescribe all rules and regulations for the management of such facilities, institutions, and programs not conflicting with the law.

37-1-22.

The board shall adopt and promulgate written rules, regulations, and standards as may be deemed necessary to effectuate the purposes of this title and which shall be the basis of state financial participation in mental health, developmental disabilities, and addictive diseases programs.

37-1-23.

The board is directed to prescribe rules of practice and procedure in order to implement this chapter. The department ~~and the division are~~ is directed to make the board's and the department's rules available for distribution.

4618 37-1-24.

4619 No provision in this title shall require the department or any facility or private facility or  
4620 any community service board to utilize a physician in lieu of a psychologist or a  
4621 psychologist in lieu of a physician in performing functions under this title even though this  
4622 title authorizes either a physician or a psychologist to perform the function.

4623 37-1-25.

4624 The department is authorized to purchase land or lands adjacent to or near lands now under  
4625 the control of the department where, in the opinion of the department, the land is needed  
4626 for the benefit of one of the institutions under its control and management, to pay for such  
4627 land out of any funds which may be available for such purpose, and to take title to land so  
4628 purchased in the name of the State of Georgia for the use of the department.

4629 37-1-26.

4630 (a) The department shall sell, to the best advantage, all surplus products of the Central  
4631 State Hospital or other institutions under the control and supervision of the department and  
4632 shall apply the proceeds thereof to the maintenance of the institution from which such  
4633 surplus products are received. Should any surplus funds arise from this source, they shall  
4634 be paid into the state treasury annually; and the department shall, at the end of each quarter,  
4635 make a detailed report of all such transactions to the Governor.

4636 (b) It is not the intention of this Code section to encourage competition in any way by the  
4637 state, its institutions, agencies, departments or branches, or other subdivisions with the  
4638 individual, private farmers of this state, or others, in the production and sale of agricultural  
4639 or industrial commodities or products in due course of commerce.

4640 37-1-27.

4641 (a) The General Assembly makes the following findings:

4642 (1) Every year in Georgia, approximately 850 people die from suicide;

4643 (2) More Georgians die from suicide than from homicide;

4644 (3) More teenagers and young adults die from suicide than from cancer, heart disease,  
4645 AIDS, birth defects, stroke, pneumonia, influenza, and chronic lung disease combined;

4646 (4) Many who attempt suicide do not seek professional help after the attempt;

4647 (5) In Georgia, three out of four suicide deaths involve a firearm;

4648 (6) Factors such as aging, drug and alcohol abuse, unemployment, mental illness,  
4649 isolation, and bullying in school contribute to causes of suicide; and

4650 (7) Education is necessary to inform the public about the causes of suicide and the early  
4651 intervention programs that are available.

4652 (b) There is created the Suicide Prevention Program to be managed by the department.

4653 (c) The department, in implementing the Suicide Prevention Program, shall:

4654 (1) Establish a link between state agencies and offices, including but not limited to the  
4655 Division of Aging Services and Division of Family and Children Services of the  
4656 Department of Human Services, the Department of Health, local government agencies,  
4657 health care providers, hospitals, nursing homes, and jails to collect data on suicide deaths  
4658 and attempted suicides;

4659 (2) Work with public officials to improve firearm safety;

4660 (3) Improve education for nurses, judges, physician assistants, social workers,  
4661 psychologists, and other counselors with regard to suicide education and prevention and  
4662 expand educational resources for professionals working with those persons most at risk  
4663 of suicide;

4664 (4) Provide training and minimal screening tools for clergy, teachers and other  
4665 educational staff, and correctional workers on how to identify and respond to persons at  
4666 risk of suicide;

4667 (5) Provide educational programs for family members of persons at an elevated risk of  
4668 suicide;

4669 (6) Develop standardized protocols to be used by the department in reviewing suicide  
4670 death scene investigations;

4671 (7) Work to increase the number of follow-back studies of suicides;

4672 (8) Work to increase the number of hospitals that code for external causes of injury;

4673 (9) Implement a state-wide reporting system for reporting suicides;

4674 (10) Support pilot projects to link and analyze information on self-destructive behavior  
4675 from various, distinct data systems; and

4676 (11) Perform such other tasks as deemed appropriate to further suicide education and  
4677 prevention in Georgia.

4678 (d) The Suicide Prevention Program shall be provided staff to consist of a full-time  
4679 coordinator, half-time data analyst/epidemiologist, and administrative support, all subject  
4680 to available funding.

4681 ARTICLE 3

4682 37-1-40.

4683 All rules and regulations of the Board of ~~Human Resources~~ Behavioral Health shall be  
4684 adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

## ARTICLE 4

37-1-50.

(a) No license, permit, or certificate or other similar right shall be revoked or suspended without opportunity for a hearing as provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any such hearing or appeal related thereto shall be conducted in accordance with such Act.

(b) The department is authorized and empowered to employ and appoint hearing examiners to conduct hearings, issue compulsory process, administer oaths, and submit their findings and recommendations to the appointing agency; provided, however, that any such examiner shall be a member of the State Bar of Georgia in good standing.

37-1-51.

Reserved.

37-1-52.

Reserved.

37-1-53.

Notwithstanding any other provision of law to the contrary, the department is authorized by regulation to classify as confidential and privileged documents, reports, and other information and data obtained by them from persons, firms, corporations, municipalities, counties, and other public authorities and political subdivisions where such matters relate to secret processes, formulas, and methods or where such matters were obtained or furnished on a confidential basis. All matters so classified shall not be subject to public inspection or discovery and shall not be subject to production or disclosure in any court of law or elsewhere until and unless the judge of the court of competent jurisdiction, after in camera inspection, determines that the public interest requires such production and disclosure or that such production and disclosure may be necessary in the interest of justice. This subsection shall not apply to clinical records maintained pursuant to Code Sections 37-3-166, 37-3-167, 37-4-125, 37-4-126, 37-7-166, and 37-7-167.

## ARTICLE 5

## Part 1

37-1-70.

As used in this ~~chapter~~ part, the term:

4716 (1) 'Inspection warrant' means a warrant authorizing a search or inspection of private  
4717 property where such a search or inspection is one that is necessary for the enforcement  
4718 of a 'public mental health law.'

4719 (2) 'Mental health law' means Code Sections 37-3-7, 37-3-8, and 37-4-4, Chapter 6 of  
4720 this title, and any rule or regulation duly promulgated thereunder.

4721 37-1-71.

4722 The commissioner or the commissioner's delegate, in addition to other procedures now or  
4723 hereafter provided, may obtain an inspection warrant under the conditions specified in this  
4724 chapter. Such warrant shall authorize the commissioner or the commissioner's delegate to  
4725 conduct a search or inspection of property either with or without the consent of the person  
4726 whose property is to be searched or inspected if such search or inspection is one that is  
4727 elsewhere authorized under the rules and regulations duly promulgated under this title.

4728 37-1-72.

4729 (a) Inspection warrants shall be issued only by a judge of a court of record whose  
4730 territorial jurisdiction encompasses the property to be inspected.

4731 (b) The issuing judge shall issue the warrant when ~~he~~ the judge is satisfied that the  
4732 following conditions are met:

4733 (1) The one seeking the warrant must establish under oath or affirmation that the  
4734 property to be inspected is to be inspected as a part of a legally authorized program of  
4735 inspection which includes that property or that there is probable cause for believing that  
4736 there is a condition, object, activity, or circumstance which legally justifies such an  
4737 inspection of that property; and

4738 (2) The issuing judge determines that the issuance of the warrant is authorized by this  
4739 chapter part.

4740 37-1-73.

4741 The inspection warrant shall be validly issued only if it meets the following requirements:

4742 (1) The warrant is attached to the affidavit required to be made in order to obtain the  
4743 warrant;

4744 (2) The warrant describes either directly or by reference to the affidavit the property  
4745 upon which the inspection is to occur and is sufficiently accurate that the executor of the  
4746 warrant and the owner or possessor of the property can reasonably determine from it the  
4747 property of which the warrant authorizes an inspection;

4748 (3) The warrant indicates the conditions, objects, activities, or circumstances which the  
4749 inspection is intended to check or reveal; and

4750 (4) The warrant refers in general terms to the statutory or regulatory provisions sought  
4751 to be enforced.

4752 37-1-74.

4753 No facts discovered or evidence obtained in an inspection conducted under authority of an  
4754 inspection warrant issued pursuant to this ~~chapter~~ part shall be competent as evidence in  
4755 any criminal proceeding against any party.

4756 Part 2

4757 37-1-90.

4758 The Department of ~~Human Resources~~ Behavioral Health is empowered to institute  
4759 appropriate proceedings for injunction in the courts of competent jurisdiction in this state  
4760 for the purpose of enjoining a violation of any provision of this title as now existing or as  
4761 may be hereafter amended or of any regulation or order duly issued by the board or  
4762 department. The department is also empowered to maintain action for injunction to abate  
4763 any public nuisance which is injurious to the public health, safety, or comfort. Such  
4764 actions may be maintained notwithstanding the fact that such violation also constitutes a  
4765 crime and notwithstanding that other adequate remedies at law exist. Such actions may be  
4766 instituted in the name of the department in the county in which a violation of any provision  
4767 of this title occurs.

4768 Part 3

4769 37-1-100.

4770 Any person violating the provisions of this title shall be guilty of a misdemeanor.

4771 CHAPTER 2

4772 ARTICLE 1

4773 37-2-1.

4774 (a) The State of Georgia recognizes its responsibility for its citizens who are mentally ill  
4775 or developmentally disabled including individuals with epilepsy, cerebral palsy, autism,  
4776 and other neurologically disabling conditions or who abuse alcohol, narcotics, or other  
4777 drugs and recognizes an obligation to such citizens to meet their needs through a  
4778 coordinated system of community facilities, programs, and services.

(b) It is the policy of this state to provide adequate mental health, developmental disability, addictive disease, and other disability services to all its citizens. It is further the policy of this state to provide such services through a unified system which encourages cooperation and sharing of resources among all providers of such services, both governmental and private.

(c) It is the purpose of this chapter to enable and encourage the development of comprehensive, preventive, early detection, habilitative, rehabilitative, and treatment disability services; to improve and expand community programs for the disabled; to provide continuity of care through integration of county, area, regional, and state services and facilities for the disabled; to provide for joint disability services and the sharing of manpower and other resources; and to monitor and restructure the system of providing disability services in the State of Georgia to make better use of the combined public and private resources of the state and local communities.

(d) The provisions of this chapter shall be liberally construed to achieve the objectives set forth in this Code section.

37-2-2.

As used in this chapter, the term:

(1) 'Addictive disease' means the ~~abuse of, addiction to, or dependence upon alcohol or other drugs and includes substance abuse~~ a chronic, often relapsing, brain disease that causes compulsive alcohol or drug seeking and use despite harmful consequences to the individual who is addicted and to those around him or her.

(2) 'Community service board' means a public mental health, developmental disabilities, and addictive diseases board established pursuant to Code Section 37-2-6.

~~(2.1)~~(3) 'Community service board area' means an area inclusive of the counties which fall within the boundaries of a community service board as designated by the ~~division~~ department pursuant to subsection (b) of Code Section 37-2-3 for the establishment of a community service board.

~~(2.2)~~(4) 'Community service board service area' means a community service board area and any other county or portion thereof in which the community service board provides services.

~~(3)~~(5) 'Consumer' means a natural person who has been or is a recipient of disability services as defined in this Code section.

(6) 'Council' means the Behavioral Health Coordinating Council established pursuant to Code Section 37-2-4.

~~(4)~~(7) 'Developmental disability' ~~includes mental retardation and other neurologically disabling conditions, including epilepsy, cerebral palsy, and autism, which require~~

4815 ~~treatment similar to that for individuals with mental retardation.~~ means a severe, chronic  
 4816 disability of an individual that:

4817 (A) Is attributable to a mental, cognitive, or physical impairment, or any combination  
 4818 of mental, cognitive, and physical impairments;

4819 (B) Is manifested before the individual attains age 22 except in cases of traumatic brain  
 4820 injury when age is not a variable;

4821 (C) Is likely to continue indefinitely;

4822 (D) Results in substantial functional limitations in three or more of the following areas  
 4823 of major life activities:

4824 (i) Self-care;

4825 (ii) Receptive and expressive language;

4826 (ii) Learning;

4827 (iv) Mobility;

4828 (v) Self-direction;

4829 (vi) Capacity for independent living; and

4830 (vii) Economic self-sufficiency; and

4831 (E) Reflects the person's need for a combination and sequence of special,  
 4832 interdisciplinary, or generic services, individualized supports, or other forms of  
 4833 assistance which are of lifelong or extended duration and are individually planned and  
 4834 coordinated.

4835 When applied to infants and young children, the term means individuals from birth to age  
 4836 nine years, inclusive, who have substantial developmental delay or specific congenital  
 4837 or acquired conditions with a high probability of resulting in developmental disabilities  
 4838 if services or supports are not provided.

4839 ~~(5) 'Director' means the director of the Division of Mental Health, Developmental~~  
 4840 ~~Disabilities, and Addictive Diseases.~~

4841 ~~(6)~~(8) 'Disability' means:

4842 (A) Mental or emotional illness;

4843 (B) Developmental disability; or

4844 (C) Addictive disease.

4845 ~~(7)~~(9) 'Disability services' means services to the disabled or services which are designed  
 4846 to prevent or ameliorate the effect of a disability.

4847 ~~(8)~~(10) 'Disabled' means any person or persons having a disability.

4848 ~~(9) 'Division' means the Division of Mental Health, Developmental Disabilities, and~~  
 4849 ~~Addictive Diseases of the Department of Human Resources.~~

4850 (11) 'Health services' means any education or service provided by the Department of  
 4851 Health or by the Department of Human Services, either directly or by contract.

4852 ~~(10)~~(12) 'Hospital' means a state owned or state operated facility providing services  
4853 which include, but are not limited to, inpatient care and the diagnosis, care, and treatment  
4854 or habilitation of the disabled. Such hospital may also provide or manage state owned  
4855 or operated programs in the community.

4856 ~~(11)~~(13) 'Regional board' means a regional ~~mental health, mental retardation, and~~  
4857 ~~substance abuse~~ board established in accordance with Code Section 37-2-4.1 as that Code  
4858 section existed on June 30, 2002.

4859 ~~(12)~~(14) 'Regional office' means the ~~Division of Mental Health, Developmental~~  
4860 ~~Disabilities, and Addictive Diseases of the Department of Human Resources~~ office  
4861 created pursuant to Code Section 37-2-4.1. Such office shall be an office of the ~~division~~  
4862 department which shall serve as the entity for the administration of disability services in  
4863 a region.

4864 ~~(13)~~(15) 'Regional planning board' means a regional mental health, developmental  
4865 disabilities, and addictive diseases board established in accordance with Code Section  
4866 37-2-4.1.

4867 ~~37-2-2.1.~~

4868 ~~The Department of Human Resources shall have a Division of Mental Health,~~  
4869 ~~Developmental Disabilities, and Addictive Diseases.~~

4870 37-2-3.

4871 (a) The board shall designate boundaries for mental health, developmental disabilities, and  
4872 addictive diseases regions and may modify the boundaries of such regions from time to  
4873 time as deemed necessary by the board.

4874 (b) The ~~division~~ department, with the approval of the commissioner, shall designate  
4875 community service board areas, which shall serve as boundaries for the establishment of  
4876 community service boards within this state for the purpose of delivering disability services.  
4877 The ~~division~~ department shall be authorized to initiate the redesignation of such community  
4878 service board area boundaries and may consider requests from a county or group of  
4879 counties or a community service board or a group of community service boards for  
4880 recommended changes to the boundaries of the community service board areas. The  
4881 ~~division~~ department, with the approval of the commissioner, is authorized to redesignate  
4882 two or more contiguous community service board areas as a single community service  
4883 board area upon the request of the community service boards serving such areas; and, if so  
4884 authorized, the assets, equipment, and resources of such community service boards shall  
4885 become the assets, equipment, and resources of the reconstituted community service board  
4886 serving the successor single board area. It is the intent of the General Assembly not to

4887 limit a community service board to serving only those counties within the boundaries of  
4888 its community service board area.

4889 (c) To the extent practicable, the boundaries for regional planning boards and offices and  
4890 community service areas shall not subdivide any county unit or conflict with any districts  
4891 established by the ~~department~~ Department of Health and the state relating to the planning  
4892 for, or delivery of, health services. In dividing the state into areas, the board, and the  
4893 ~~department, and the division~~ shall take into consideration such factors as geographic  
4894 boundaries, roads and other means of transportation, population concentrations, city and  
4895 county lines, other relevant community services, and community economic and social  
4896 relationships. Consideration shall also be given to the existence of facilities and personnel  
4897 available in the areas for the delivery of disability services.

4898 37-2-4.

4899 ~~(a) The Governor shall appoint, fund, and provide staff assistance to a Governor's~~  
4900 ~~Advisory Council for Mental Health, Developmental Disabilities, and Addictive Diseases,~~  
4901 ~~referred to in this chapter as the 'Governor's council.' The Governor's council shall consist~~  
4902 ~~of no more than 30 and no less than 15 members, who shall be representative of~~  
4903 ~~professional and lay individuals, organizations, and state agencies associated or involved~~  
4904 ~~with services for the disabled. Such members shall be fairly representative of all disability~~  
4905 ~~groups. The term of each member of the Governor's council shall be for three years,~~  
4906 ~~provided that of the members first appointed, ten shall be appointed for a term of one year,~~  
4907 ~~five for a term of two years, and the remainder, if any, for a term of three years. Vacancies~~  
4908 ~~shall be filled by similar appointment for unexpired terms. The director shall be an ex~~  
4909 ~~officio, nonvoting member. There is created the Behavioral Health Coordinating Council.~~  
4910 The council shall consist of the commissioner of behavioral health; the commissioner of  
4911 health; the commissioner of human services; the commissioner of juvenile justice; the  
4912 commissioner of corrections; an adult consumer of public behavioral health services,  
4913 appointed by the Governor; a family member of a consumer of public behavioral health  
4914 services, appointed by the Governor; a parent of a child receiving public behavioral health  
4915 services, appointed by the Governor; a member of the House of Representatives, appointed  
4916 by the Speaker of the House of Representatives; and a member of the Senate, appointed by  
4917 the Lieutenant Governor.

4918 ~~(b) The Governor's council shall advise the Governor, the board, the department, and the~~  
4919 ~~division as to the efficacy of the state disability services programs, the need for legislation~~  
4920 ~~relating to the disabled, the need for expansion or reduction of specific disability services~~  
4921 ~~programs, and the need for specific changes in the state disability services programs. The~~  
4922 ~~Governor's council shall review and prepare written comments on proposed state plans and~~

~~on standards, rules, and regulations promulgated by the division. Such comments shall be submitted to the director, the board, the commissioner, and to any other individual or agency deemed appropriate. The Governor's council shall further receive and consider complaints and grievances submitted in writing by individuals, associations, or agencies involved with the delivery or receipt of disability services and, if deemed appropriate, shall make recommendations to the Governor, the board, the department, or the division with respect to such complaints or grievances. The Governor's council shall also provide guidance and assistance to the regional planning boards, hospitals, community service boards, and other private or public providers in the performance of their duties.~~

(b) The commissioner of behavioral health shall be the chairperson of the council. A vice chairperson and a secretary shall be selected by the members of the council as prescribed in the council's bylaws.

(c) Meetings of the council shall be held quarterly, or more frequently, on the call of the chairperson. Meetings of the council shall be held with no less than five days' public notice for regular meetings and with such notice as the bylaws may prescribe for special meetings. Each member shall be given written notice of all meetings. All meetings of the council shall be subject to the provisions of Chapter 14 of Title 50. Minutes or transcripts shall be kept of all meetings of the council and shall include a record of the votes of each member, specifying the yea or nay vote or absence of each member, on all questions and matters coming before the council. No member may abstain from a vote other than for reasons constituting disqualification to the satisfaction of a majority of a quorum of the council on a recorded vote. No member of the council shall be represented by a delegate or agent.

(d) Except as otherwise provided in this Code section, a majority of the members of the council then in office shall constitute a quorum for the transaction of business. No vacancy on the council shall impair the right of the quorum to exercise the powers and perform the duties of the council. The vote of a majority of the members of the council present at the time of the vote, if a quorum is present at such time, shall be the act of the council unless the vote of a greater number is required by law or by the bylaws of the council.

(e) The council shall:

(1) Develop solutions to the systemic barriers or problems to the delivery of behavioral health services by making recommendations that implement funding, policy changes, practice changes, and evaluation of specific goals designed to improve services delivery and outcome for individuals served by the various departments;

(2) Focus on specific goals designed to resolve issues for provision of behavioral health services that negatively impact individuals serviced by at least two departments;

(3) Monitor and evaluate the implementation of established goals; and

(4) Establish common outcome measures.

4960 (f)(1) The council may consult with various entities, including state agencies, councils,  
4961 and advisory committees and other advisory groups as deemed appropriate by the  
4962 council.

4963 (2) All state departments, agencies, boards, bureaus, commissions, and authorities are  
4964 authorized and required to make available to the council access to records or data which  
4965 are available in electronic format or, if electronic format is unavailable, in whatever  
4966 format is available. The judicial and legislative branches are authorized to likewise  
4967 provide such access to the council.

4968 (g) The council shall be attached to the Department of Behavioral Health for  
4969 administrative purposes only as provided by Code Section 50-4-3.

4970 (h)(1) The council shall submit annual reports of its recommendations and evaluation of  
4971 their implementation to the Governor and the General Assembly.

4972 (2) The recommendations developed by the council shall be presented to the board of  
4973 each member department for approval or review at least annually.

4974 (i) For purposes of this Code section, the term 'behavioral health services' has the same  
4975 meaning as 'disability services' as defined in Code Section 37-2-2.

4976 37-2-4.1.

4977 (a) The ~~division~~ department shall create regional mental health, developmental disabilities,  
4978 and addictive diseases offices. The number of these offices may be modified from time to  
4979 time as deemed necessary by the ~~division~~ department.

4980 (b) The ~~division~~ department, in consultation with the Department of Human Services, shall  
4981 create a separate regional mental health, developmental disabilities, and addictive diseases  
4982 planning board for each regional office established under subsection (a) of this Code  
4983 section. Each board shall provide and facilitate coordinated and comprehensive planning  
4984 for its region in conformity with minimum standards and procedures established by the  
4985 ~~division~~ department. Each board shall be designated with such identifying words before  
4986 the term 'regional mental health, developmental disabilities, and addictive diseases  
4987 planning board' as that regional planning board may, from time to time, choose and  
4988 designate by official action.

4989 (c) The powers, functions, obligations, and duties of the regional mental health, mental  
4990 retardation, and substance abuse boards as they existed on June 30, 2002, are transferred  
4991 to the department. The department shall succeed to all rights, privileges, entitlements,  
4992 contracts, leases, agreements, and other transactions of the regional boards which were in  
4993 effect on June 30, 2002, and none of those rights, privileges, entitlements, contracts, leases,  
4994 agreements, and other transactions shall be impaired or diminished by reason of such  
4995 transfer. In all such instances, the department shall be substituted for such regional board

4996 and the department shall succeed to the rights and duties under such contracts, leases,  
4997 agreements, and other transactions.

4998 37-2-5.

4999 (a) Each regional planning board shall engage in disability services planning within its  
5000 region and shall perform such other functions as may be provided or authorized by law.

5001 (b) Membership on the regional planning board within an established region shall be  
5002 determined as follows:

5003 (1) Each county with a population of 50,000 or less according to the United States  
5004 decennial census of 1990 or any future such census shall appoint one member to the  
5005 board;

5006 (2) Each county with a population of more than 50,000 according to the United States  
5007 decennial census of 1990 or any future such census shall appoint one member for each  
5008 population increment of 50,000 or any portion thereof;

5009 (3) The appointment or appointments for each county shall be made by the county  
5010 governing authority; and

5011 (4) The county governing authority shall appoint a consumer of disability services, a  
5012 family member of a consumer, an advocate for disability services, or a local leader or  
5013 business person with an interest in mental health, developmental disabilities, and  
5014 addictive diseases; provided, however, that for counties with more than one appointment,  
5015 the county governing authority shall seek to ensure that such appointments represent  
5016 various groups and disability services.

5017 (b.1) A county governing authority may appoint the school superintendent, a member of  
5018 the county board of health, a member of the local board of education, or any other elected  
5019 or appointed official to serve on the regional planning board, provided that such person  
5020 meets the qualifications of paragraph (4) of subsection (b) of this Code section, such person  
5021 does not serve on a community service board, and such appointment does not violate the  
5022 provisions of Chapter 10 of Title 45.

5023 (b.2)(1) A person shall not be eligible to be appointed to or serve on a regional planning  
5024 board if such person is:

5025 (A) A member of the community service board which serves that region; or

5026 (B) An employee or board member of a private or public entity which contracts with  
5027 the department, ~~through the division,~~ the Department of Human Services, or the  
5028 Department of Health to provide health, mental health, developmental disabilities, or  
5029 addictive diseases services within the region; ~~or~~

5030 (C) An employee of such regional office or employee or board member of any private  
5031 or public group, organization, or service provider which contracts with or receives  
5032 funds from such regional office; or

5033 (D) An employee or board member of the department, the Department of Human  
5034 Services, or the Department of Health.

5035 (2) A person shall not be eligible to be appointed to or serve on a regional planning board  
5036 if such person's spouse, parent, child, or sibling is a member of that regional planning  
5037 board or a member, employee, or board member specified in ~~subparagraph (A), (B), or~~  
5038 ~~(C)~~ of paragraph (1) of this subsection. No person who has served a full term or more  
5039 on a regional board or regional planning board may be appointed to a community service  
5040 board until a period of at least two years has passed since the time such person served on  
5041 the regional board or the regional planning board. No person who has served on a  
5042 regional board and who becomes a member of a regional planning board on June 30,  
5043 2002, may be appointed to a community service board until a period of at least two years  
5044 has passed since the time such person has served on the regional planning board.

5045 (c) In making appointments to the regional planning board, the various county governing  
5046 authorities shall ensure that appointments are reflective of the cultural and social  
5047 characteristics, including gender, race, ethnic, and age characteristics, of the regional and  
5048 county populations. The county governing authorities are further encouraged to ensure that  
5049 each disability group is viably represented on the regional planning board, and in so doing  
5050 the county governing authority may consider suggestions for appointments from clinical  
5051 professional associations as well as advocacy groups, including but not limited to the  
5052 Georgia Mental Health Consumer Network, People First of Georgia, the Georgia Parent  
5053 Support Network, National Alliance for the Mentally Ill Georgia, the American Association  
5054 for Retired Persons, Georgians for Children, the National Mental Health Association of  
5055 Georgia, Georgia ARC Network, and the Georgia Council on Substance Abuse and their  
5056 local chapters and affiliates.

5057 (d)(1) In addition, members of the regional mental health, mental retardation, and  
5058 substance abuse boards in office on June 30, 2002, shall become members of the regional  
5059 planning board for the area in which they reside on July 1, 2002, and shall serve out the  
5060 balance of their terms.

5061 (2) The initial term of a new member of a regional planning board shall be determined  
5062 by the commissioner in order to establish staggered terms on the board. At such time as  
5063 the terms of the members of the board are equally staggered, the term of a member of the  
5064 regional planning board shall be for a period of three years and until the member's  
5065 successor is appointed and qualified. A member may serve no more than two consecutive  
5066 terms. The term of a regional planning board member shall terminate upon resignation,

5067 death, or inability to serve due to medical infirmity or other incapacity or such other  
5068 reasonable condition as the regional planning board may impose under its bylaws.  
5069 Vacancies on the regional planning board shall be filled in the same manner as the  
5070 original appointment.

5071 (e) Prior to August 1, 2002, each regional planning board shall adopt bylaws governing  
5072 its operation and management. At a minimum, the bylaws shall provide for staggered  
5073 terms of the board, requirements for an annual meeting to elect officers, a mechanism for  
5074 ensuring that consumers of disability services and family members of consumers constitute  
5075 a majority of the appointments to the board, and a mechanism for ensuring that each  
5076 disability service is equitably represented by appointments to the board. Any board  
5077 member who serves an initial term of less than three years may be eligible to be  
5078 reappointed for two full consecutive three-year terms. The chairperson and vice  
5079 chairperson of the regional planning board shall be elected from among the members of the  
5080 board to serve a term of one year with the option of reelection for an additional one-year  
5081 term. The bylaws shall provide for any other officers and their means of selection, as well  
5082 as any necessary committees or subcommittees of the board. Prior to their adoption by the  
5083 regional planning board, the bylaws shall be submitted to the ~~division~~ department for  
5084 review and approval. The regional planning board must have the written approval of the  
5085 ~~director of the division~~ commissioner prior to the adoption of bylaws.

5086 (f) The regional planning board shall meet not less than once every two months, beginning  
5087 on July 1 and continuing through the next June 30, which time frame shall be the fiscal  
5088 year for each regional planning board.

5089 (g) Each member of the regional planning board may, upon approval of the regional  
5090 coordinator, receive reimbursement for actual expenses incurred in carrying out the duties  
5091 of such office in conformance with rates and allowances set for state employees by the  
5092 Office of Planning and Budget and the same mileage allowance for use of a personal car  
5093 as that received by all other state officials and employees or a travel allowance of actual  
5094 transportation cost if traveling by public carrier.

5095 (h) Each regional planning board which is composed of members who are appointed  
5096 thereto by the governing authority of only one county shall have a minimum of six  
5097 members, notwithstanding the provisions of subsection (b) of this Code section, which  
5098 members shall in all other respects be appointed as provided in this Code section.

5099 37-2-5.1.

5100 (a) Each region shall be served by a regional coordinator, who shall be duly qualified and  
5101 appointed by the ~~director of the division~~ commissioner. The regional coordinator shall  
5102 serve as the supervisor of the regional office, which shall be a unit of the ~~division~~

5103 ~~department.~~ The regional coordinator shall serve at the pleasure of the ~~division director~~  
 5104 ~~commissioner.~~ The ~~director of the division~~ commissioner shall be authorized to appoint  
 5105 an interim regional coordinator at any time that the position of regional coordinator is  
 5106 vacant and prior to the appointment of a duly qualified and approved successor.

5107 (b) The regional coordinator may appoint such other staff including a regional services  
 5108 administrator ~~and a regional state hospital administrator~~ and personnel to work for the  
 5109 regional office as the ~~division~~ department deems necessary and appropriate. The regional  
 5110 coordinator and such staff and personnel shall be employees of the ~~division~~ department.  
 5111 Expenses for the regional office and planning board, the employment of the regional  
 5112 coordinator, other staff and personnel, and the operation of the regional office shall be  
 5113 funded by the ~~division~~ department as funds are appropriated by the General Assembly. The  
 5114 ~~department and the division~~ shall impose limits on the administrative and operating  
 5115 expenditures of the regional office and planning board.

5116 (c)(1) State, federal, and other funds appropriated to the department, ~~the division, or~~  
 5117 ~~both~~, and available for the purpose of funding the planning and delivery of disability  
 5118 services shall be distributed in accordance with this subsection. All funds associated with  
 5119 services to clients residing within a given region shall be managed through the ~~division~~  
 5120 department; the term 'all funds' shall include funding for hospitals, community service  
 5121 boards, private and public contracts, and any contracts relating to service delivery for  
 5122 clients within the given region. The ~~division~~ department shall establish a funding amount  
 5123 for regions conditioned upon the amount of funds appropriated. The funding amount  
 5124 shall be determined, in part, based on consumer service needs, service and program  
 5125 history, population based funding needs, infrastructure mandates, program efficiency and  
 5126 effectiveness, geographic distances, and other factors affecting the cost and level of  
 5127 service needs within each region.

5128 (2) The ~~division~~ department shall establish guidelines to ensure that regions receive such  
 5129 funding based on client population, past and future service delivery needs and  
 5130 capabilities, and in consideration of special needs populations, such as homeless and  
 5131 transient populations. The ~~division~~ department shall ensure that funds are managed based  
 5132 primarily on services to clients and in compliance with all federal, state, and regulatory  
 5133 requirements.

5134 (3) The ~~division~~ department, in compliance with the provisions of the General  
 5135 Appropriations Act and other applicable laws, is authorized to move funds to and  
 5136 between community and institutional programs based on need, and the ~~division~~  
 5137 department shall develop appropriate allocation and accounting mechanisms to move  
 5138 funds in a planned and rational manner between hospitals, community service boards, and  
 5139 other providers based on client needs and utilization.

5140 37-2-5.2.

5141 (a) Under the supervision of the ~~division~~ department, each regional office shall have the  
5142 following duties and functions:

5143 (1) To prepare, in consultation with consumers and families, community programs,  
5144 hospitals, other public and private providers, its regional planning board, and appropriate  
5145 advisory and advocacy groups, an annual plan for the funding and provision of all  
5146 disability services in the region. The plan shall be submitted to the ~~division~~ department  
5147 at a time and in the manner specified by the ~~division~~ department so as to ensure that the  
5148 plan is a basis for the annual appropriations request;

5149 (2) To provide, as funds become available, for consumer assessment and service  
5150 authorization and coordination for each consumer receiving services within the region;

5151 (3) To exercise responsibility and authority as specified in this chapter within the region  
5152 in all matters relating to the funding and delivery of disability services;

5153 (4) To receive and administer grants, gifts, moneys, and donations for purposes  
5154 pertaining to mental health, developmental disability, and addictive disease services;

5155 (5) To enter into contracts on behalf of the ~~division~~ department with any hospital,  
5156 community service board, or other public or private providers without regard to regional  
5157 or state boundaries for the provision of disability services, and to enter into all contracts  
5158 on behalf of the ~~division~~ department necessary or incidental to the performance of duties  
5159 and functions of the ~~division~~ department and regional office;

5160 (6) To encourage the development, in cooperation with the ~~division~~ department, of  
5161 private and public providers of programs and disability services which respond to the  
5162 needs of consumers and families of consumers within the region;

5163 (7) To serve as the representative of the citizens of the area in regard to disability  
5164 services;

5165 (8) To receive and consider complaints and grievances submitted by individuals,  
5166 associations, or agencies involved with the delivery or receipt of disability services and,  
5167 if deemed appropriate, to seek resolution, through processes which may include impartial  
5168 mediation and alternate dispute resolution, of such complaints and grievances with the  
5169 appropriate hospital, community service board, or other private or public provider of  
5170 service;

5171 (9) To assure the highest achievable level of public awareness and understanding of both  
5172 available and needed disability services;

5173 (10) To visit regularly disability services facilities and programs which serve the region  
5174 in order to assure contracted providers are licensed and accredited by the designated  
5175 agencies prescribed by the ~~division~~ department, and in order to evaluate the effectiveness  
5176 and appropriateness of the services, as such services relate to the health, safety, and

5177 welfare of service recipients, and to provide technical assistance to programs in  
5178 delivering services; and

5179 (11) To participate with other regional offices and planning boards, ~~the division~~, the  
5180 department, local, state, or federal government agencies, educational institutions, and  
5181 public and private organizations in the coordination of planning, research, service  
5182 development, and evaluation activities:

5183 (A) To work cooperatively with all units of county and local government, including the  
5184 county boards of health, within the region;

5185 (B) To establish goals and objectives, not inconsistent with those established by ~~the~~  
5186 ~~division~~ and the department, for its region; and

5187 (C) To participate in the establishment and operation of a data base and network,  
5188 coordinated by the ~~division~~ department, to serve as a comprehensive management  
5189 information system for disability services and programs.

5190 (b) It is the express intent of this chapter to confer upon the regional offices as the  
5191 administrative entities of the ~~division~~ department the flexibility and authority necessary to  
5192 enter into contracts on behalf of the ~~division~~ department with a wide range of public and  
5193 private providers to ensure that consumers are afforded cost-effective, locally based, and  
5194 quality disability services. Under the supervision of the ~~division~~ department, regional  
5195 offices are specifically authorized to enter into contracts on behalf of the ~~division~~  
5196 department directly with any county governing authority, any disability services  
5197 organization created or designated by such county governing authority, any county board  
5198 of health, any private or public provider, or any hospital for the provision of disability  
5199 services.

5200 (c) Each regional office shall account for all funds received, expended, and administered  
5201 and shall make reports to the ~~division~~ department and to the Department of Human  
5202 Services regarding the funds received from each such department. The audit of such  
5203 activity shall be part of the annual audit of the appropriate department.

5204 37-2-6.

5205 (a) Community service boards in existence on June 30, 2006, are re-created effective July  
5206 1, 2006, to provide mental health, developmental disabilities, and addictive diseases  
5207 services. ~~Such~~ Effective July 1, 2009, such community service boards may enroll and  
5208 contract with the department, the Department of Human Services, or the Department of  
5209 Health to become a provider of mental health, developmental disabilities, and addictive  
5210 diseases services or health services. Such boards shall be considered public agencies.  
5211 Each community service board shall be a public corporation and an instrumentality of the  
5212 state; provided, however, the liabilities, debts, and obligations of a community service

board shall not constitute liabilities, debts, or obligations of the state or any county or municipal corporation and neither the state nor any county or municipal corporation shall be liable for any liability, debt, or obligation of a community service board. Each community service board re-created pursuant to this Code section is created for nonprofit and public purposes to exercise essential governmental functions. The re-creation of community service boards pursuant to this Code section shall not alter the provisions of Code Section 37-2-6.2 which shall apply to those re-created community service boards and their employees covered by that Code section and those employees' rights are retained.

(b) Each community service board shall consist of members appointed by the governing authorities of the counties within the community service board area. Membership on such community service board shall be determined as follows:

(1)(A) The governing authority of each county within the community service board area:

(i) With a population of 50,000 or less according to the most recent United States decennial census shall appoint one member to the board; and

(ii) With a population of more than 50,000 according to the most recent United States decennial census shall appoint one member for each population increment of 50,000 or any portion thereof; or

(B) In the event that the number of community service board member positions established in accordance with subparagraph (A) of this paragraph would exceed 13, the membership of such community service board pursuant to this subsection shall be appointed as follows and the bylaws shall be amended accordingly:

(i) For community service boards whose community service board area contains 13 or fewer counties, the board shall be set at 13 members and appointments to the board shall be made by the governing authority of each county within the community service board area in descending order from the county with the largest population to the county with the smallest population according to the most recent United States decennial census and this method shall be repeated until all 13 members of the community service board are appointed. If a county governing authority fails to make an appointment within a reasonable time, the next descending county by population shall make an appointment and the method shall continue; and

(ii) For community service boards whose community service board area contains more than 13 counties, one member of the community service board shall be appointed by the governing authority of each county within the community service board area, so that the number of members on the board is equal to the number of counties in the community service board area.

The county governing authority shall appoint as at least one of its appointments a consumer of disability services, a child psychiatrist, a family member of a consumer, an advocate for disability services or for health services, or a local leader or businessperson with an interest in mental health, developmental disabilities, and addictive diseases or health services; provided, however, that for counties with more than one appointment, the county governing authority shall seek to ensure that such appointments represent various groups and disability services;

(2) In addition to the members appointed pursuant to paragraph (1) of this subsection, each community service board may appoint up to three additional members in order to address variation in the population sizes of counties or the financial contributions of counties within the community service board area or may authorize the elected chief executive officer of a county governing authority, by whatever name called, or an elected member of that county governing authority to serve on the community service board while holding such elective office. The bylaws of the community service board shall address the number of such additional members, if any, and the purpose or purposes for which such positions are created. The term of office of such additional members shall be the same as that of other members as provided in subsection (h) of this Code section; except that the term of office of a member in a position created to authorize the elected chief executive officer of a county governing authority, by whatever name called, or an elected member of that county governing authority to serve on the community service board shall be the same term of office as the elective term of office of said chief executive officer or said member of that county governing authority;

(3) Each community service board in existence on June 30, 2006, shall reconstitute its membership in accordance with the provisions of paragraphs (1) and (2) of this subsection, effective July 1, 2006, as follows:

(A) A community service board which increases or reduces the number of its members in accordance with paragraphs (1) and (2) of this subsection shall revise its bylaws adopted in accordance with subsection (h) of this Code section to reflect such increases or reductions. A community service board which reduces the number of its members shall designate which position or positions are to be eliminated and shall make reasonable efforts to eliminate any position or positions of members whose terms expire on or before June 30, 2006; provided, however, that members serving on a community service board whose terms do not expire on or before June 30, 2006, shall continue to serve out the terms of office to which they were appointed, regardless of whether this causes a board to temporarily exceed the maximum number of members. Any additional positions created in conformity with such paragraphs (1) and (2) may be filled on July 1, 2006, and the governing authority of a county that is otherwise

authorized to appoint such additional community service board member or members may do so no sooner than May 1, 2006, but any person so appointed shall not take office until July 1, 2006. If a position on such community service board is not filled on July 1, 2006, a vacancy in that position shall be deemed to have occurred on that date. A community service board is authorized to make whatever changes necessary in the terms of office of its members in order to achieve the staggering of terms required by subsection (h) of this Code section; and

(B) The term of office of an ex officio, voting member of a community service board holding membership on June 30, 2006, shall expire on June 30, 2006; and

(4)(A) A person shall not be eligible to be appointed to or serve on a community service board if such person is:

(i) A member of the regional planning board which serves the region in which that community service board is located;

(ii) An employee or board member of a public or private entity which contracts with the ~~division~~ department, the Department of Human Services, or the Department of Health to provide mental health, developmental disabilities, and addictive diseases services or health services within the region; or

(iii) An employee of that community service board or employee or board member of any private or public group, organization, or service provider which contracts with or receives funds from that community service board.

(B) A person shall not be eligible to be appointed to or serve on a community service board if such person's spouse, parent, child, or sibling is a member of that community service board or a member, employee, or board member specified in ~~division (i), (ii), or (iii) of subparagraph (A)~~ of this paragraph. With respect to appointments by the same county governing authority, no person who has served a full term or more on a community service board may be appointed to a regional planning board until a period of at least two years has passed since the time such person served on the community service board, and no person who has served a full term or more on a regional planning board may be appointed to a community service board until a period of at least two years has passed since the time such person has served on the regional planning board.

(5) A community service board created in accordance with this subsection shall reconstitute its membership in conformity with the most recent United States decennial census in accordance with subparagraph (d)(2)(C) of Code Section 1-3-1.

(b.1) A county governing authority may appoint the school superintendent, a member of the county board of health, a member of the board of education, or any other elected or appointed official to serve on the community service board provided that such person meets the qualifications of paragraph (1) of subsection (b) of this Code section and such

5323 appointment does not violate the provisions of Chapter 10 of Title 45. For terms of office  
5324 which begin July 1, 1994, or later, an employee of the Department of Human Resources  
5325 (now known as the Department of Behavioral Health for these purposes) or an employee  
5326 of a county board of health ~~may~~ shall not serve on a community service board. For terms  
5327 of office which begin July 1, 2009, or later, an employee of the department, the Department  
5328 of Human Services, or the Department of Health or a board member of the respective  
5329 boards of each department shall not serve on a community service board.

5330 (c) In making appointments to the community service board, the county governing  
5331 authorities shall ensure that such appointments are reflective of the cultural and social  
5332 characteristics, including gender, race, ethnic, and age characteristics, of the community  
5333 service board area and county populations. The county governing authorities are further  
5334 encouraged to ensure that each disability group is and consumers of health services are  
5335 represented on the community service board, and in making such appointments the county  
5336 governing authorities may consider suggestions from clinical professional associations as  
5337 well as advocacy groups. For the purposes of this subsection, 'advocacy groups' means any  
5338 organizations or associations that advocate for, promote, or have an interest in disability  
5339 services or health services and are exempted as a charitable organization from federal  
5340 income tax pursuant to Section 501(c) of the Internal Revenue Code; provided, however,  
5341 that 'advocacy groups' shall not mean paid providers of disability services or health  
5342 services.

5343 (c.1) A county governing authority in making appointments to the community service  
5344 board shall take into consideration that at least one member of the community service  
5345 board is an individual who is trained or certified in finance or accounting; provided,  
5346 however, if after a reasonable effort at recruitment there is no person trained or certified  
5347 in finance or accounting within the community service board area who is willing and able  
5348 to serve, the county governing authority may consider for appointment any other person  
5349 having a familiarity with financial or accounting practices.

5350 (d) Each county in which the governing authority of the county is authorized to appoint  
5351 members to the community service board shall participate with the board in the operation  
5352 of the program through the community service board. All contractual obligations,  
5353 including but not limited to real estate leases, rentals, and other property agreements, other  
5354 duties, rights, and benefits of the mental health, developmental disabilities, and addictive  
5355 diseases service areas in existence on June 30, 2006, shall continue to exist along with the  
5356 new powers granted to the community service boards effective July 1, 2006.

5357 (e) Notwithstanding any other provision of this chapter, a community service board may  
5358 be constituted in a method other than that outlined in subsection (b) of this Code section  
5359 if:

(1) A board of health of a county desiring to be the lead county board of health for that county submits a written agreement to the ~~division~~ former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health) of the former Department of Human Resources before July 1, 1993, to serve as the community service board and to continue providing disability services in that county after July 1, 1994, and the governing authority for that county ~~adopts~~ adopted a resolution stating its desire to continue the provision of disability services through its board of health after July 1, 1994, and ~~submits~~ submitted a copy of such resolution to the ~~former~~ division before July 1, 1993; or

(2)(A) The lead county board of health for a community mental health, mental retardation, and substance abuse service area, as designated by the ~~division~~ former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health) of the former Department of Human Resources on July 15, 1993, but which area excludes any county which meets the requirements of paragraph (1) of this subsection, ~~submits~~ submitted a written agreement to the former division and to all counties within such service area to serve as the community service board for that area and to continue providing disability services after July 1, 1994, which agreement ~~shall be~~ was submitted between July 31, 1993, and December 31, 1993; and

(B) Each county governing authority which is within the service area of a lead county board of health which has submitted an agreement pursuant to subparagraph (A) of this paragraph ~~adopts~~ adopted a resolution stating its desire to continue the provision of disability services through such lead county board of health after July 1, 1994, and ~~submits~~ submitted a copy of that resolution to the former division, the regional board, and the lead county board of health between July 31, 1993, and December 31, 1993; and

(3) The lead county board of health qualifying as such under paragraph (1) or (2) of this subsection agrees in writing to appoint a director for mental health, mental retardation, and substance abuse other than the director of the county board of health as stipulated in Code Section 31-3-12.1, to appoint an advisory council on mental health, mental retardation, and substance abuse consisting of consumers, families of consumers, and representatives from each of the counties within the boundaries of the community service board, and to comply with all other provisions relating to the delivery of disability services pursuant to this chapter.

(f) If the conditions enumerated in subsection (e) of this Code section are not met prior to or on December 31, 1993, a community service board as provided in subsection (b) shall be established and appointed by January 31, 1994, to govern the provision of disability

5397 services within the boundaries of the community service board. Such community service  
5398 board shall have the authority to adopt bylaws and undertake organizational and contractual  
5399 activities after January 31, 1994; provided, however, that the community service board  
5400 established pursuant to this Code section may not begin providing services to clients until  
5401 July 1, 1994.

5402 (g) If a community service board is established pursuant to paragraph (2) of subsection (e)  
5403 of this Code section, such community service board must operate as established at least  
5404 until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996,  
5405 the counties included under the jurisdiction of such a community service board may vote  
5406 to reconstitute the community service board pursuant to the provisions of subsection (b)  
5407 of this Code section by passage of a resolution by a majority of the county governing  
5408 authorities within the jurisdiction of the community service board prior to January 1, 1997,  
5409 or each year thereafter.

5410 (h) Each community service board shall adopt bylaws and operational policies and  
5411 guidelines in conformity with the provisions of this chapter. Those bylaws shall address  
5412 board appointment procedures, initial terms of board members, the staggering of terms,  
5413 quorum, a mechanism for ensuring that consumers of disability services or of health  
5414 services and family members of consumers constitute no less than 50 percent of the board  
5415 members appointed pursuant to subsection (b) of this Code section, and a mechanism for  
5416 ensuring equitable representation of the various disability groups and health services. A  
5417 quorum for the transaction of any business and for the exercise of any power or function  
5418 of the community service board shall consist of a majority of the total number of filled  
5419 board member positions appointed pursuant to subsection (b) of this Code section. A vote  
5420 of the majority of such quorum shall be the act of the governing board of the community  
5421 service board except where the bylaws of the community service board may require a  
5422 greater vote. The regular term of office for each community service board member shall  
5423 be three years. Vacancies on such board shall be filled in the same manner as the original  
5424 appointment. For the purposes of this subsection, 'equitable representation of the various  
5425 disability and health service groups' shall mean that consumers and family members of  
5426 such consumers who constitute no less than 50 percent of the board members holding  
5427 membership pursuant to subsection (b) of this Code section shall be appointed so as to  
5428 assure that an equal number of such members to the fullest extent possible represents  
5429 mental health, developmental disabilities, and addictive diseases interests and the interests  
5430 of consumers of health services.

5431 (i) Each community service board which is composed of members who are appointed  
5432 thereto by the governing authority of only one county shall have a minimum of six and no  
5433 more than 13 members, not including any additional members appointed pursuant to

paragraph (2) of subsection (b) of this Code section, notwithstanding the provisions of subsection (b) of this Code section, which members in all other respects shall be appointed as provided in this Code section.

(j) No officer or employee of a community service board who has authority to take, direct others to take, recommend, or approve any personnel action shall take or threaten action against any employee of a community service board as a reprisal for making a complaint or disclosing information concerning the possible existence of any activity constituting fraud, waste, or abuse in or relating to the programs, operations, or client services of the board to the board or to a member of the General Assembly unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity. Any action taken in violation of this subsection shall give the public employee a right to have such action set aside in a proceeding instituted in the superior court.

(k) A member of a community service board who after notice that such member has failed to complete any required training prescribed by the department pursuant to paragraph (6) ~~(4) of subsection (b)~~ of Code Section 37-1-20 continues such failure for 30 days may be removed from office by the remaining members of the community service board.

(l) A member of a community service board may resign from office by giving written notice to the executive director of the community service board. The resignation is irrevocable after delivery to such executive director but shall become effective upon the date on which the notice is received or on the effective date given by the member in the notice, whichever date is later. The executive director, upon receipt of the resignation, shall give notice of the resignation to the remaining members of the community service board and to the chief executive officer or governing authority of the county that appointed the member.

(m) The office of a member of a community service board shall be vacated upon such member's resignation, death, or inability to serve due to medical infirmity or other incapacity, removal by the community service board as authorized in this Code section or upon such other reasonable condition as the community service board may impose under its bylaws.

(n) A member of a community service board may not enter upon the duties of office until such member takes the following oath of office:

STATE OF GEORGIA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, do solemnly swear or affirm that I will truly perform the duties of a member of the \_\_\_\_\_ Community Service Board to the best of my ability.

5471 I do further swear or affirm:

5472 (1) That I am not the holder of any unaccounted for public money due this state or any  
5473 political subdivision or authority thereof;

5474 (2) That I am not the holder of any office of trust under the government of the United  
5475 States, any other state, or any foreign state which I am by the laws of the State of Georgia  
5476 prohibited from holding;

5477 (3) That I am otherwise qualified to hold said office according to the Constitution and  
5478 the laws of Georgia; and

5479 (4) That I will support the Constitution of the United States and this state.

5480 \_\_\_\_\_  
5481 Signature of member of  
5482 \_\_\_\_\_ Community Service Board

5483 \_\_\_\_\_  
5484 Typed name of member of  
5485 \_\_\_\_\_ Community Service Board

5486 Sworn and subscribed  
5487 before me this \_\_\_\_\_ day  
5488 of \_\_\_\_\_, \_\_\_\_\_.  
5489 (SEAL)

5490 37-2-6.1.

5491 (a) Each community service board shall employ an executive director to serve as its chief  
5492 executive officer who shall direct the day-to-day operations of the community service  
5493 board. Such executive director shall be appointed and removed by the community service  
5494 board and shall appoint other necessary staff pursuant to an annual budget adopted by the  
5495 board, which budget shall provide for securing appropriate facilities, sites, and  
5496 professionals necessary for the provision of disability and health services. The community  
5497 service board may delegate any power, authority, duty, or function to its executive director  
5498 or other staff. The executive director or other staff is authorized to exercise any power,  
5499 authority, duty, or function on behalf of the community service board.

5500 (b) Each community service board, under the jurisdiction of its board, shall perform duties,  
5501 responsibilities, and functions and may exercise power and authority described in this  
5502 subsection. Each program may exercise the following power and authority:

5503 (1) Each community service board may adopt bylaws for the conduct of its affairs;  
5504 provided, however, that the community service board shall meet at least quarterly, and

5505 that all such meetings and any bylaws shall be open to the public, as otherwise required  
5506 under Georgia law;

5507 (2) Each community service board may make and enter into all contracts necessary and  
5508 incidental to the performance of its duties and functions;

5509 (3) Each community service board may acquire by purchase, gift, lease, or otherwise and  
5510 may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease, and  
5511 dispose of real and personal property of every kind and character, or any interest therein,  
5512 for its corporate purposes;

5513 (4) Each community service board may contract to utilize the services of the Department  
5514 of Administrative Services, the State Merit System of Personnel Administration, the state  
5515 auditor, or any other agency of state, local, or federal government;

5516 (5) Each community service board may provide, either independently or through contract  
5517 with appropriate state or local governmental entities, the following benefits to its  
5518 employees, their dependents, and survivors, in addition to any compensation or other  
5519 benefits provided to such persons:

5520 (A) Retirement, pension, disability, medical, and hospitalization benefits, through the  
5521 purchase of insurance or otherwise, but medical and hospitalization benefits may only  
5522 be provided through the Department of ~~Community~~ Health under the same conditions  
5523 as provided for such benefits to state employees, and the Department of ~~Community~~  
5524 Health shall so provide if requested;

5525 (B) Life insurance coverage and coverage under federal old age and survivors'  
5526 insurance programs;

5527 (C) Sick leave, annual leave, and holiday leave; and

5528 (D) Any other similar benefits including, but not limited to, death benefits;

5529 (6) Each community service board may cooperate with all units of local government in  
5530 the counties where the community service board provides services as well as neighboring  
5531 regions and with the programs of other departments, agencies, and regional commissions  
5532 and regional planning boards;

5533 (7) Each community service board shall establish and maintain a personnel program for  
5534 its employees and fix the compensation and terms of compensation of its employees;  
5535 provided, however, each community service board shall comply with the provisions of  
5536 Chapter 20 of Title 45, relating to state personnel administration, for ~~as~~ so long as and to  
5537 the extent that each employee of such board who is a covered employee as defined in  
5538 Code Section 45-20-2 and is subject to the rules and regulations of the State Merit System  
5539 of Personnel Administration remains in a covered position or as otherwise provided by  
5540 law;

- 5541 (8) Each community service board may receive and administer grants, gifts, contracts,  
5542 moneys, and donations for purposes pertaining to the delivery of disability services or of  
5543 health services;
- 5544 (9) Each community service board may establish fees for the provision of disability  
5545 services or health services according to the terms of contracts entered into with the  
5546 department, Department of Human Resources Services, and the or Department of  
5547 Community Health, as appropriate;
- 5548 (10) Each community service board may accept appropriations, loans of funds, facilities,  
5549 equipment, and supplies from local governmental entities in the counties where the  
5550 community service board provides services;
- 5551 (11) Each member of the community service board may, upon approval of the executive  
5552 director, receive reimbursement for actual expenses incurred in carrying out the duties  
5553 of such office; provided, however, such reimbursement shall not exceed the rates and  
5554 allowances set for state employees by the Office of Planning and Budget or the mileage  
5555 allowance for use of a personal car as that received by all other state officials and  
5556 employees or a travel allowance of actual transportation cost if traveling by public  
5557 carrier;
- 5558 (12) Each community service board shall elect a chairperson and vice chairperson from  
5559 among its membership. The members shall also elect a secretary and treasurer from  
5560 among its membership or may designate the executive director of the community service  
5561 board to serve in one or both offices. Such officers shall serve for such terms as shall be  
5562 prescribed in the bylaws of the community service board or until their respective  
5563 successors are elected and qualified. No member shall hold more than one office of the  
5564 community service board; except that the same person may serve as secretary and  
5565 treasurer. The bylaws of the community service board shall provide for any other officers  
5566 of such board and the means of their selection, the terms of office of the officers, and an  
5567 annual meeting to elect officers;
- 5568 (13) Each community service board may have a seal and alter it;
- 5569 (14) Each community service board may contract with the State Merit System of  
5570 Personnel Administration regarding its personnel who remain in the classified service;
- 5571 (15) Each community service board may establish fees, rates, rents, and charges for the  
5572 use of facilities of the community service board for the provision of disability services  
5573 or of health services through the Department of Health, in accordance with the terms of  
5574 contracts entered into with the department, Department of Human Services, or  
5575 Department of Health, as appropriate;
- 5576 (16) Each community service board may borrow money for any business purpose and  
5577 may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or

obligation incurred by a community service board shall not be considered a debt, liability, or obligation of the state or any county or any municipality or any political subdivision of the state. A community service board may not borrow money as permitted by this Code section if the highest aggregate annual debt service requirements of the then current fiscal year or any subsequent year for outstanding borrowings of the community service board, including the proposed borrowing, exceed 15 percent of the total revenues of the community service board in its fiscal year immediately preceding the fiscal year in which such debt is to be incurred. Interest paid upon such borrowings shall be exempt from taxation by the state or its political subdivisions. A state contract with a community service board shall not be used or accepted as security or collateral for a debt, liability, or obligation of a community service board without the prior written approval of the commissioner;

(17) Each community service board, to the extent authorized by law and the contract for the funds involved, may carry forward without lapse fund balances and establish operating, capital, and debt reserve accounts from revenues and grants derived from state, county, and all other sources; and

(18) Each community service board may operate, establish, or operate and establish facilities deemed by the community service board as necessary and convenient for the administration, operation, or provision of disability services or of health services by the community service board and may construct, reconstruct, improve, alter, repair, and equip such facilities to the extent authorized by state and federal law.

(c) Nothing shall prohibit a community service board from contracting with any county governing authority, private or other public provider, or hospital for the provision of disability services or of health services.

(d) Each community service board exists for nonprofit and public purposes, and it is found and declared that the carrying out of the purposes of each community service board is exclusively for public benefit and its property is public property. Thus, no community service board shall be required to pay any state or local ad valorem, sales, use, or income taxes.

(e) A community service board ~~does~~ shall not have the power to tax, the power to issue general obligation bonds or revenue bonds or revenue certificates, or the power to financially obligate the state or any county or any municipal corporation.

(f) A community service board shall not operate any facility for profit. A community service board may fix fees, rents, rates, and charges that are reasonably expected to produce revenues, which, together with all other funds of the community service board, will be sufficient to administer, operate, and provide the following:

(1) Disability services or health services;

5615 (2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating  
5616 its facilities; and

5617 (3) The creation and maintenance of reserves sufficient to meet principal and interest  
5618 payments due on any obligation of the community service board.

5619 (g) Each community service board may provide reasonable reserves for the improvement,  
5620 replacement, or expansion of its facilities and services. Reserves under this subsection  
5621 shall be subject to the limitations in paragraph (16) of subsection (b) of this Code section.

5622 (h) Each county and municipal corporation of this state is authorized to convey or lease  
5623 property of such county or municipal corporation to a community service board for its  
5624 public purposes. Any property conveyed or leased to a community services board by a  
5625 county or municipal corporation shall be operated by such community service board in  
5626 accordance with this chapter and the terms of the community service board's agreements  
5627 with the county or municipal corporation providing such conveyance or lease.

5628 (i) Each community service board shall keep books of account reflecting all funds  
5629 received, expended, and administered by the community service board which shall be  
5630 independently audited annually.

5631 (j) A community service board may create, form, or become a member of a nonprofit  
5632 corporation, limited liability company, or other nonprofit entity, the voting membership of  
5633 which shall be limited to community service boards, governmental entities, nonprofit  
5634 corporations, or a combination thereof, if such entity is created for purposes that are within  
5635 the powers of the community service board, for the cooperative functioning of its members,  
5636 or a combination thereof; provided, however, that no funds provided pursuant to a contract  
5637 between the department, Department of Human Services, or Department of Health and the  
5638 community service board may be used in the formation or operation of the nonprofit  
5639 corporation, limited liability company, or other nonprofit entity. No community service  
5640 board, whether or not it exercises the power authorized by this subsection, shall be relieved  
5641 of compliance with Chapter 14 of Title 50, relating to open and public meetings, and  
5642 Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless  
5643 otherwise provided by law.

5644 (k) No community service board shall employ or retain in employment, either directly or  
5645 indirectly through contract, any person who is receiving a retirement benefit from the  
5646 Employees' Retirement System of Georgia except in accordance with the provisions of  
5647 subsection (c) of Code Section 47-2-110; provided, however, that any such person who is  
5648 employed as of July 1, 2004, may continue to be employed.

5649 (l) A community service board may join or form and operate, either directly or indirectly,  
5650 one or more networks of community service boards, disability or health service  
5651 professionals, and other providers of disability services or health services to arrange for the

provision of disability services or health services through such networks; to contract either directly or through such networks with the Department of ~~Community~~ Health to provide services to Medicaid beneficiaries; to provide disability services or health services in an efficient and cost-effective manner on a prepaid, capitation, or other reimbursement basis; and to undertake other disability or health services related managed care activities. For purposes of this subsection only and notwithstanding Code Section 33-3-3 or any other provision of law, a community service board shall be permitted to and shall comply with the requirements of Chapter 20A of Title 33 to the extent that such requirements apply to the activities undertaken by the community service board or by a community service board under this subsection or subsection (j) of this Code section. No community service board, whether or not it exercises the powers authorized by this subsection, shall be relieved of compliance with Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless otherwise provided by law. Any licensed health care provider shall be eligible to apply to become a participating provider under such a plan or network that provides coverage for health care, ~~or~~ disability services, or health services which are within the lawful scope of the provider's license, but nothing in this Code section shall be construed to require any such plan or network to provide coverage for any specific health care, ~~or~~ disability service, or health service.

37-2-6.2.

(a)(1) Those employees whose job descriptions, duties, or functions as of June 30, 1994, included the performance of employment duties or functions which will become employment duties or functions of the personnel of a community service board on July 1, 1994, shall become employees of the applicable community service boards on and after July 1, 1994. Such employees shall be subject to the employment practices and policies of the applicable community service board on and after July 1, 1994. Employees who are subject to the State Merit System of Personnel Administration and who are transferred to a community service board shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, 1994, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, 1994, without any interruption in membership service and without the loss of any creditable service. For purposes of coverage under the Employees' Retirement System of Georgia, such employees transferred to the community service boards on July 1, 1994, shall be deemed to be state employees. Accrued annual and sick leave possessed by said employees on June 30,

1994, shall be retained by said employees as employees of the community service board. Any person who is granted employment rights and benefits as a member of a community service board pursuant to this subsection and who later becomes employed, without any break in service, by the ~~division~~ department, Department of Human Services, or Department of Health, a hospital thereof, another community service board, a county board of health for which such person provides services pursuant to this title, or a regional board shall retain, in that later employment position, all such rights and benefits. Such rights and benefits shall also be retained by any person who is employed on June 30, 1994, by the ~~division~~ former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health) of the former Department of Human Resources, a hospital thereof, a county board of health for which such person provides services pursuant to this title, or a regional board and who later becomes employed, without any break in service, by a community service board.

(2) Classified employees of a community service board under this chapter shall in all instances be employed and dismissed in accordance with rules and regulations of the State Merit System of Personnel Administration.

(3) All rights, credits, and funds in the Employees' Retirement System of Georgia which are possessed by personnel transferred by provisions of this Code section to the community service boards are continued and preserved, it being the intention of the General Assembly that such persons shall not lose any rights, credits, or funds to which they may be entitled prior to becoming employees of the community service boards.

(b) As to those persons employed by the ~~division~~ former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health) of the former Department of Human Resources, a hospital thereof, or a regional board on June 30, 1994, any termination from state employment after that date of any such person who is a member of the classified service shall not result from the anticipated or actual employment or utilization by:

- (1) The department;
- (2) A regional board;
- (3) A community service board;
- (4) A hospital; ~~or~~
- (5) The Department of Human Services;
- (6) The Department of Health; or

~~(5)(7)~~ Any private provider of disability services or health services of any person who is not an employee of the state or a political subdivision thereof to perform the duties and functions of such terminated state personnel unless such termination and utilization is the result of a reduction in appropriations for such duties or functions or is the result of a

5725 reduction in force caused by any other state department or agency which has ceased to  
5726 contract with the department, the Department of Human Services, or the Department of  
5727 Health for the services which had been provided by the terminated state personnel.

5728 37-2-6.3.

5729 (a) A community service board is a public body as provided in paragraph (1) of subsection  
5730 (c) of Code Section 37-2-11.1.

5731 (b) A community service board has the power to bring an action in its own name and, to  
5732 the extent otherwise authorized by law and to the extent not immune from suit, may be  
5733 sued in its own name. The state and the counties in which the community service board  
5734 operates shall not be considered a party to or liable under any such litigation.

5735 (c) Debts, obligations, and liabilities of a community service board are not; debts,  
5736 obligations, or liabilities of the state or of the counties in which such board operates. A  
5737 community service board is prohibited from entering into debts, obligations, or liabilities  
5738 which are also debts, obligations, or liabilities of the state or of any county.

5739 37-2-6.4.

5740 (a) Notwithstanding any other provisions of this chapter, a community service board may  
5741 reconstitute or convert its organizational structure in the following ways:

5742 (1) With the approval of the governing board of the community service board and the  
5743 approval of the county governing authorities of the counties served by the community  
5744 service board, the community service board may convert to a private nonprofit  
5745 corporation. So long as the reconstituted organization continues to serve a public purpose  
5746 as defined by the department, the Department of Human Services, or the Department of  
5747 Health, as appropriate, such organization shall be authorized to retain the use of assets,  
5748 equipment, and resources purchased with state and federal funds by the former  
5749 community service board. In the event the new private nonprofit fails to serve such  
5750 public purpose, those assets, equipment, and resources purchased by the former  
5751 community service board with state and federal funds shall be returned to the department,  
5752 the Department of Human Services, or the Department of Health, as appropriate, or to an  
5753 agency designated by ~~the~~ such department. For a period of three years following the  
5754 community service board's conversion to a private nonprofit corporation, the private  
5755 nonprofit corporation shall ensure that consumers of disability services or health services,  
5756 as appropriate, and family members of such consumers constitute a majority of the  
5757 appointed board members and that the various disability groups and health services  
5758 groups are equitably represented on the board of the nonprofit corporation;

5759 (2) With the approval of the governing board of the community service board and the  
 5760 approval of all of the county governing authorities of the counties served by the  
 5761 community service board, the community service board may convert to a unit of county  
 5762 government. All assets, equipment, and resources of the community service board shall  
 5763 be transferred to the new unit of county government; or

5764 (3) With the approval of the governing board of the community service board and the  
 5765 approval of all of the county governing authorities of the counties served by the  
 5766 community service board, the community service board may become a component part  
 5767 of a hospital authority in those counties served by the community service board. So long  
 5768 as the hospital authority continues to serve a public purpose as defined by the department,  
 5769 the Department of Human Services, or the Department of Health, as appropriate, the  
 5770 hospital authority shall be authorized to retain possession of those assets, equipment, and  
 5771 resources purchased by the community service board with state and federal funds. In the  
 5772 event the hospital authority fails to serve such public purpose, those assets, equipment,  
 5773 and resources purchased by the community service board with state and federal funds  
 5774 shall be returned to the department, the Department of Human Services, or the  
 5775 Department of Health, as appropriate, or to an agency designated by the such appropriate  
 5776 department or departments.

5777 (b) In the event that all county governing authorities of a community service area  
 5778 designated pursuant to subsection (b) of Code Section 37-2-3 concur that a community  
 5779 service board reconstituted pursuant to subsection (a) of this Code section has failed to  
 5780 provide disability services or health services as required, those county governing  
 5781 authorities may request that the ~~division~~ department coordinate the formation of a new  
 5782 community service board pursuant to Code Section 37-2-6. Upon notification of the  
 5783 request, the ~~division~~ department shall assist the county governing authorities in making  
 5784 appointments to the new community service board and establishing bylaws pursuant to  
 5785 Code Section 37-2-6. The ~~division~~ department shall make a determination about the  
 5786 disposition of all assets, equipment, and resources purchased with state or federal funding  
 5787 in the possession of the predecessor agency. To the extent that the community service  
 5788 board was providing disability services or health services through the Department of  
 5789 Human Services or the Department of Health, such department or departments shall  
 5790 provide to the Department of Behavioral Health all documents, data, information, and  
 5791 consultation necessary or helpful to the formation of the new community service board and  
 5792 the determination and disposition of assets, equipment, and resources of the community  
 5793 service board.

5794 37-2-6.5.

5795 (a) By joint action of the membership of a community service board created pursuant to  
5796 Code Section 37-2-6 and the governing authority of each county within the community  
5797 service board area, such community service board may cease operations; provided,  
5798 however, such community service board shall notify the commissioner at least 90 days in  
5799 advance of the meeting of the community service board in which such action is to be taken.  
5800 Such joint action shall indicate the date on which the community service board shall cease  
5801 operations.

5802 (b) Upon receipt of notification that a community service board intends to cease  
5803 operations, the commissioner shall notify the chairperson and executive director of such  
5804 community service board and the governing authority of each county within the community  
5805 service board area of such board that:

5806 (1) The department, after securing the approval of the Governor, intends to appoint a  
5807 manager or management team to manage and operate the programs and services of the  
5808 community service board in accordance with the provisions of paragraph (1) of  
5809 subsection (c) of Code Section 37-2-10 until the ~~division~~ department shall determine:

5810 (A) That such community service board should continue in operation, provided one or  
5811 more members appointed to such board in accordance with subsection (b) of Code  
5812 Section 37-2-6 shall be removed in accordance with subparagraph (c)(3)(H) of Code  
5813 Section 37-2-10, and the ~~division~~ department, acting on behalf of the membership of  
5814 the community service board, nominates a successor to a removed member and advises  
5815 the county governing authority that appointed such removed member to appoint a  
5816 successor;

5817 (B) That all of the members of such community service board appointed in accordance  
5818 with subsection (b) of Code Section 37-2-6 shall be removed and such community  
5819 service board shall be reconstituted; and that the ~~division~~ department shall assist the  
5820 county governing authorities in making appointments to the new community service  
5821 board; or

5822 (C) In the case where the membership of such community service board is the  
5823 membership of a county board of health designated in accordance with Code Section  
5824 31-3-12.1 or subsection (e) of Code Section 37-2-6, that the entire membership of the  
5825 community service board should be removed and the membership of the community  
5826 service board be reconstituted in accordance with subsection (b) of Code Section  
5827 37-2-6;

5828 (2) The ~~division~~ department, with the approval of the commissioner, intends to  
5829 redesignate the boundaries of the community service board area served by such board  
5830 pursuant to paragraph (1) of subsection (b) of Code Section 37-2-3 by expanding the

5831 boundaries of an adjacent community service board area served by another community  
5832 service board to include the counties in the community service board area served by the  
5833 community service board that intends to cease operations so that the community service  
5834 board serving such adjacent area may assume responsibility for the provision of disability  
5835 services within such counties;

5836 (3) The department intends to request pursuant to Code Section 31-3-12.1 that the  
5837 governing authority of a county within the community service board area of such board  
5838 authorize the membership of the board of health of such county to serve as the  
5839 membership of such community service board; or

5840 (4) The department, after securing the approval of the Governor, intends to appoint a  
5841 manager or management team to manage and operate the programs and services of the  
5842 community service board until such time as arrangements can be made to secure one or  
5843 more alternate service providers to assume responsibility for the provision of services  
5844 previously provided by the community service board.

5845 (c) If a community service board ceases operation and is succeeded by another community  
5846 service board pursuant to paragraph (2), a county board of health pursuant to paragraph (3),  
5847 or a manager or management team pursuant to paragraph (4) of subsection (b) of this Code  
5848 section, the ~~division~~ department shall make a determination about the disposition of all  
5849 assets, equipment, and resources purchased with state or federal funding in the possession  
5850 of the predecessor community service board.

5851 (d) If a community service board ceases operation and one or more alternate service  
5852 providers assume responsibility for the provision of services previously provided by the  
5853 community service board pursuant to paragraph (4) of subsection (b) of this Code section,  
5854 the department shall petition the superior court of the county in which the principal office  
5855 of that community service board was located for appointment of a receiver of the assets of  
5856 the community service board for the protection of the board's creditors and the public. The  
5857 receiver shall be authorized to marshal and sell or transfer assets of the board, and, after  
5858 payment of the costs, expenses, and approved fees of the proceeding, to pay the liabilities  
5859 of the community service board. The court shall then decree that the board be dissolved.  
5860 Upon completion of the liquidation, any surplus remaining after paying all costs of the  
5861 liquidation shall be distributed, as determined by the court, to the agencies, entities, or  
5862 providers providing disability services in the community service board area formerly  
5863 served by the community service board which ceased operations. At no time shall any  
5864 community service board upon ceasing operations convey any of its property, except as  
5865 may be otherwise authorized by a superior court in this subsection, to any private person,  
5866 association, or corporation.

5867 37-2-7.

5868 (a) The ~~division~~ department shall formulate and publish biennially a state plan for  
5869 disability services which shall take into account the disability services plans submitted by  
5870 the regional offices as required by Code Section 37-2-5.2. The state disability services plan  
5871 shall be comprehensive and shall include public and private institutional and community  
5872 services to the disabled. In developing the state plan, the ~~division~~ department shall request  
5873 input from the regional offices and planning boards, the community service boards,  
5874 hospitals, and other public and private providers. The plan shall include an overview of  
5875 current services and programs and shall also present information on future program,  
5876 service, educational, and training needs.

5877 (b) The plan shall address ways of eliminating, to the extent possible, detrimental delays  
5878 and interruptions in the administration of disability services when moving an individual  
5879 from one element of service to another in order to ensure continuity of care and treatment  
5880 for persons receiving such services.

5881 (c) The plan shall further set forth the proposed annual budget of the ~~division~~ department  
5882 and the regions.

5883 (d) The plan shall be submitted to the department, the Governor, the General Assembly,  
5884 the ~~Governor's~~ council, the regional planning boards, the hospitals, the community service  
5885 boards, and any other public or private provider requesting a copy of the plan.

5886 (e) At such time as the state plan is submitted, the ~~division~~ department shall further submit  
5887 an analysis of services provided, programs instituted, progress made, and the extent of  
5888 implementation of the previous biennial plan. Such analysis shall measure the  
5889 effectiveness and the efficiency of the methods of delivering services which ameliorate or  
5890 prevent disability and restore health. This analysis shall further address the efforts of the  
5891 ~~division~~ department in coordinating services in accordance with Code Section 37-2-9.

5892 37-2-8.

5893 Reserved.

5894 37-2-9.

5895 To the maximum extent possible, disability services provided by the ~~division~~ department  
5896 and the regional offices, hospitals, community service boards, and other public and private  
5897 providers shall be coordinated with related activities of the department and judicial,  
5898 correctional, educational, social, and other health service agencies and organizations, both  
5899 private and public.

5900 37-2-9.1.

5901 (a) Each regional planning board and community service board shall comply with the  
5902 provisions of Chapter 14 of Title 50, relating to open and public meetings, and Article 4  
5903 of Chapter 18 of Title 50, relating to inspection of public records, except where records or  
5904 proceedings are expressly made confidential pursuant to other provisions of law.

5905 (b) Each regional office and community service board and other public and private  
5906 providers are authorized to establish one or more advisory boards for the purpose of  
5907 ensuring coordination with various agencies and organizations and providing professional  
5908 and other expert guidance.

5909 37-2-10.

5910 (a) Notwithstanding any other provisions of the law, the ~~director~~ commissioner with the  
5911 concurrence of ~~the commissioner~~ and the Governor is authorized to establish and  
5912 administer community programs on an emergency basis in the event one or more  
5913 community service boards fail to assume responsibility for the establishment and  
5914 implementation of an adequate range of disability services or to provide appropriate  
5915 disability services as determined by the ~~division~~ department or substantially breach their  
5916 contracts with the department pursuant to this chapter.

5917 (b) Upon notification by a community service board of an inability to provide an adequate  
5918 range of disability services or to provide appropriate services, the ~~director~~ commissioner,  
5919 with concurrence of ~~the commissioner~~ and the Governor, may:

5920 (1) Assume responsibility for the administration and operation of all of the community  
5921 programs operated by or through such board and, in which case, the programs shall  
5922 become department programs; the department shall acquire the assets of the community  
5923 service board; and the community service board employees shall become employees of  
5924 the department; or

5925 (2) Assume responsibility for the administration and operation of one or more of the  
5926 community programs operated by or through such board, in which case, such program  
5927 or programs shall become a department program or programs; the department shall  
5928 acquire those assets of the community service board assigned to such program or  
5929 programs; and the employees of such program or programs shall become employees of  
5930 the department. Any community service board programs not transferred to the  
5931 department shall continue to be operated by the community service board and the  
5932 employees for such programs shall remain community service board employees.

5933 (c)(1) Notwithstanding any other provisions of the law, in extenuating circumstances, the  
5934 ~~director~~ commissioner with the concurrence of ~~the commissioner~~ and the Governor is  
5935 authorized to appoint a manager or management team to manage and operate the

5936 programs and services of the community service board if the ~~director~~ commissioner finds  
 5937 that the community service board:

5938 (A) Provides notice pursuant to Code Section 37-2-6.5 that such board intends to cease  
 5939 operations;

5940 (B) Intentionally, recklessly, or negligently failed to discharge its duties pursuant to a  
 5941 contract with the department;

5942 (C) Misused state or federal funds;

5943 (D) Engaged in a fraudulent act, transaction, practice, or course of business;

5944 (E) Endangered the life, safety, or health of a consumer served by the community  
 5945 service board;

5946 (F) Failed to keep fiscal records and maintain proper control over its assets;

5947 (G) Failed to respond to a substantial deficiency in a review or audit;

5948 (H) Otherwise substantially failed to comply with this chapter or the rules or standards  
 5949 of the department ~~or division~~; or

5950 (I) No longer has the fiscal ability to continue to provide contracted services and,  
 5951 without the intervention of the department, continued provision of disability services  
 5952 or health services to consumers in the service area is in immediate jeopardy.

5953 (2) In order to carry out the provisions of paragraph (1) of this subsection, the ~~director~~  
 5954 commissioner shall give written notice to the community service board regarding the  
 5955 appointment of a manager or management team and the circumstances on which the  
 5956 appointment is based. The ~~director~~ commissioner may require the community service  
 5957 board to pay costs incurred by the manager or management team.

5958 (3) Subject to the determination of the ~~director~~ commissioner, a manager or management  
 5959 team appointed pursuant to this subsection may:

5960 (A) Evaluate, redesign, modify, administer, supervise, or monitor a procedure,  
 5961 operation, or the management of the community service board;

5962 (B) Hire, supervise, discipline, reassign, or terminate the employment of an employee  
 5963 of the community service board;

5964 (C) Reallocate the resources and manage the assets of the community service board;

5965 (D) Require that a financial transaction, expenditure, or contract for goods and services  
 5966 be approved by the manager or management team;

5967 (E) Redesign, modify, or terminate a program or service of the community service  
 5968 board;

5969 (F) Direct the members of the community service board, the executive director, chief  
 5970 financial officer, or any other administrative or program manager to take an action;

5971 (G) Exercise a power, duty, authority, or function of the community service board as  
 5972 authorized by this chapter;

5973 (H) Recommend to the ~~director~~ commissioner the removal of a member or the  
5974 executive director of the community service board; and the provisions of any law to the  
5975 contrary notwithstanding, the ~~director~~ commissioner may remove such member or  
5976 executive director from office; and

5977 (I) Report at least monthly to the ~~director~~ commissioner on actions taken.

5978 (4) A manager or management team appointed pursuant to this subsection may not use  
5979 or dispose of any asset or funds contributed to the community service board by the  
5980 governing authority of a county or municipal corporation without the approval of such  
5981 governing authority.

5982 (5) If a manager or management team is appointed pursuant to this Code section, the  
5983 department may:

5984 (A) Upon a determination that the conditions that gave rise to the appointment of a  
5985 manager or management team pursuant to this subsection have been met and that such  
5986 manager or management team is no longer necessary, terminate the authority delegated  
5987 to such manager or management team and restore authority to the community service  
5988 board to manage and operate the services and programs of the community service  
5989 board; or

5990 (B) Operate and manage the programs of the community service board until such time  
5991 as arrangements can be made to secure one or more alternative service providers to  
5992 assume responsibility for the provision of services previously provided by the  
5993 community service board. If this option is exercised, the department shall petition the  
5994 appropriate superior court for appointment of a receiver pursuant to subsection (d) of  
5995 Code Section 37-2-6.5.

5996 (6) Nothing in this subsection shall be construed to prohibit the department from  
5997 canceling a contract with a community service board.

5998 37-2-11.

5999 (a) It is the goal of the State of Georgia that every citizen be provided an adequate level  
6000 of disability care through a unified system of disability services. To this end, the  
6001 department ~~through the division~~ shall, to the maximum extent possible, allocate funds  
6002 available for services so as to provide an adequate disability services program available to  
6003 all citizens of this state. In funding and providing disability services, the ~~division~~  
6004 department and the regional offices shall ensure that all providers, public or private, meet  
6005 minimum standards of quality and competency as established by the department ~~and the~~  
6006 ~~division~~.

6007 (b) Fees generated, if any, by hospitals, community service boards, and other private and  
6008 public providers, providing services under contract or purview of the ~~division~~ department,

shall be reported to the ~~division~~ department and applied wherever appropriate against the cost of providing, and increasing the quantity and quality of, disability services; provided, however, that income to a community service board derived from fees may be used to further the purposes of such community service board as found in Code Section 37-3-6.1, subject to appropriations. The ~~division~~ department shall be responsible for developing procedures to properly account for the collection, remittance, and reporting of generated fees. The ~~division~~ department shall work with the community service boards and other public or private providers to develop an appropriate mechanism for accounting for the funds and resources contributed to local disability services by counties and municipalities within the area. Such contributions are not required to be submitted to either the community service boards or the ~~division~~ department; however, appropriate documentation and accounting entries shall make certain that the county or municipality is credited, and if necessary compensated, appropriately for such contribution of funds or resources.

(c) No person shall be denied disability services provided by the state as defined in this chapter based on age, gender, race, ethnic origin, or inability to pay; provided, however, unless otherwise prohibited by law or contract, providers of disability services may deny nonemergency disability services to any person who is able to pay, but who refuses to pay. The ~~division~~ department shall develop a state-wide sliding fee scale for the provision of disability services and shall promulgate standards that define emergency disability services and refusal to pay.

37-2-11.1.

(a) Venue for the purpose of any action against a community service board shall be the county in which the principal office of the community service board is located. For purposes of this Code section, 'principal office' shall be defined as the facility which houses the executive director or other such top administrator for the community service board.

(b) In any legal proceeding, a regional planning board or the regional office shall be considered a unit of the ~~division~~ department and shall be afforded the assistance of legal counsel from the Attorney General.

(c)(1) The community service boards shall be public bodies but shall not be considered agencies of the state or any specific county or municipality. Such community service boards are public agencies in their own right and shall have the same immunity as provided for counties. No county shall be liable for any action, error, or omission of a community service board. Notwithstanding any provisions of law to the contrary, and regardless of any provisions of law which grant employees of the community service boards benefits under programs operated by the state or which deem them to be state employees only for purposes of those benefits, employees of the community service

boards shall not be employees of the state but shall be employees of the community service boards and, further, the state shall not be liable for any action, error, or omission of such employees.

(2) A community service board may employ or contract for legal counsel to assist in performing its duties and shall be authorized to appoint legal counsel to represent the community service board and its employees. The community service board may exercise any authority granted in Article 2 of Chapter 9 of Title 45, relating to the indemnification, defense, and insuring of members and employees of public bodies.

37-2-11.2.

(a) Notwithstanding any other law to the contrary, to ensure the quality and integrity of patient and client care, any program receiving any public funds from, or subject to licensing, certification, or facility approval by, the department, the Department of Human ~~Resources~~ Services, the Department of Health, or a regional office shall be required to provide the department or the appropriate regional office or both, upon request, complete access to, including but not limited to authorization to examine and reproduce, any records required to be maintained in accordance with contracts, standards, or rules and regulations of the department, the Department of Human ~~Resources~~ Services, or the Department of Health or pursuant to the provisions of this title.

(b) Records obtained pursuant to subsection (a) of this Code section shall not be considered public records and shall not be released by the department, the Department of Human Services, the Department of Health, or any regional office unless otherwise specifically authorized by law.

(c) The community service board shall maintain a clinical record for each consumer receiving treatment or habilitation services from such board. The treatment of clinical records of consumers in receiving services for mental illness shall be governed by the provisions of Code Section 37-3-166. The treatment of clinical records of consumers receiving habilitation services for developmental disabilities shall be governed by the provisions of Code Section 37-4-125. The treatment of clinical records of consumers in treatment for addictive diseases shall be governed by the provisions of Code Section 37-7-166."

### SECTION 3-2.

The following Code sections of the Official Code of Georgia Annotated are amended by replacing "Department of Human Resources" wherever it occurs with "Department of Behavioral Health":

(1) Code Section 15-11-73, relating to juvenile traffic offenses;

- 6080 (2) Code Section 15-11-152, relating to ordering an evaluation of a child's mental  
6081 condition;
- 6082 (3) Code Section 16-7-83, relating to persons convicted or under indictment for certain  
6083 offenses;
- 6084 (4) Code Section 16-11-129, relating to license to carry pistol or revolver;
- 6085 (5) Code Section 17-7-130, relating to proceedings upon plea of mental incompetency  
6086 to stand trial;
- 6087 (6) Code Section 17-7-131, relating to proceedings upon plea of insanity or mental  
6088 incompetency at time of crime;
- 6089 (7) Code Section 26-4-5, relating to definitions relative to the "Georgia Pharmacy  
6090 Practice Act";
- 6091 (8) Code Section 33-24-28, relating to termination of coverage of dependent child upon  
6092 attainment of specified age;
- 6093 (9) Code Section 37-3-146, relating to education of children undergoing treatment in a  
6094 facility for persons who are mentally ill;
- 6095 (10) Code Section 37-3-150, relating to right to appeal orders of probate court, juvenile  
6096 court, or hearing examiner;
- 6097 (11) Code Section 37-4-4, relating to coordination of training programs for the mentally  
6098 retarded;
- 6099 (12) Code Section 37-4-110, relating to appeal rights of clients, their representatives, or  
6100 attorneys relating to habilitation of mentally retarded persons;
- 6101 (13) Code Section 37-5-4, relating to applicability of the "Community Services Act for  
6102 the Mentally Retarded";
- 6103 (14) Code Section 37-5-7, relating to duty of the Department of Human Resources to  
6104 provide consulting and financial assistance to county boards of health;
- 6105 (15) Code Section 37-7-3, relating to coordination of state drug and alcohol abuse  
6106 programs;
- 6107 (16) Code Section 37-7-146, relating to education of children undergoing treatment in  
6108 a facility for persons who are alcoholics, drug dependent individuals, or drug abusers;
- 6109 (17) Code Section 37-7-150, relating to right to appeal orders of probate court, juvenile  
6110 court, or hearing examiner;
- 6111 (18) Code Section 40-5-82, relating to administration of the Driver Improvement  
6112 Program;
- 6113 (19) Code Section 42-1-13, relating to the Sexual Offender Registration Review Board;
- 6114 (20) Code Section 42-8-35.3, relating to conditions of probation for stalking or  
6115 aggravated stalking;

- 6116 (21) Code Section 42-9-41, relating to duty of the State Board of Pardons and Paroles  
6117 to obtain and place in records information respecting persons subject to relief or placed  
6118 on probation;
- 6119 (22) Code Section 43-12A-5, relating to provider centers that engage in the practice of  
6120 providing, installing, or monitoring ignition interlock devices not to operate under any  
6121 name deceptively similar to another business;
- 6122 (23) Code Section 45-9-4.2, relating to liability coverage for nonprofit agencies  
6123 providing services to the mentally retarded;
- 6124 (24) Code Section 49-5-221, relating to definitions relative to children and adolescents  
6125 with severe emotional problems;
- 6126 (25) Code Section 49-5-223, relating to the State Plan for the Coordinated System of  
6127 Care for children and adolescents with severe emotional problems;
- 6128 (26) Code Section 49-5-224, relating to the submission by the commissioner of human  
6129 resources of an annual report on the State Plan for the Coordinated System of Care;
- 6130 (27) Code Section 49-5-227, relating to the Governor's Office for Children and Families  
6131 to comment on the State Plan for Coordinated System of Care and provide  
6132 recommendations; and
- 6133 (28) Code Section 50-27-24, relating to lottery prize proceeds subject to state income tax.

6134 **SECTION 3-3.**

6135 The following Code sections of the Official Code of Georgia Annotated are amended by  
6136 replacing "commissioner of human resources" wherever it occurs with "commissioner of  
6137 behavioral health":

- 6138 (1) Code Section 42-1-13, relating to the Sexual Offender Registration Review Board;  
6139 and
- 6140 (2) Code Section 49-5-224, relating to the submission by the commissioner of human  
6141 resources of an annual report on the State Plan for the Coordinated System of Care;

6142 **SECTION 3-4.**

6143 The following Code sections of the Official Code of Georgia Annotated are amended by  
6144 replacing "Division of Mental Health, Developmental Disabilities, and Addictive Diseases  
6145 of the Department of Human Resources" wherever it occurs with "Department of Behavioral  
6146 Health":

- 6147 (1) Code Section 15-11-149, relating to disposition of mentally ill or mentally retarded  
6148 child;
- 6149 (2) Code Section 40-5-64, relating to limited driving permits for certain offenders;
- 6150 (3) Code Section 45-18-5.2, relating to sheltered employment center employees; and

6151 (4) Code Section 49-4A-9, relating to sentence of youthful offenders.

6152 **SECTION 3-5.**

6153 The following Code sections of the Official Code of Georgia Annotated are amended by  
6154 replacing "mentally retarded" or "Mentally Retarded" wherever it occurs with  
6155 "developmentally disabled" or "Developmentally Disabled", respectively:

6156 (1) Code Section 31-22-9.1, relating to who may perform HIV tests;

6157 (2) Code Section 35-1-8, relating to the acquisition, collection, classification, and  
6158 preservation of information assisting in identifying deceased persons and locating missing  
6159 persons;

6160 (3) Code Section 35-3-34.1, relating to circumstances when exonerated first offender's  
6161 criminal record may be disclosed;

6162 (4) Code Section 37-4-1, relating to the declaration of policy relating to the habilitation  
6163 of mentally retarded persons generally;

6164 (5) Code Section 37-4-3, relating to the authority of the board of human resources to  
6165 issue regulations relating to the habilitation of mentally retarded persons generally;

6166 (6) Code Section 37-4-4, relating to coordination of training programs for the mentally  
6167 retarded;

6168 (7) Code Section 37-4-5, relating to validity of hospital orders entered before September  
6169 1, 1978;

6170 (8) Code Section 37-4-8, relating to approval of private facilities;

6171 (9) Code Section 37-4-20, relating to examination of minor children;

6172 (10) Code Section 37-4-21, relating to admission of mentally retarded persons to  
6173 facilities for purposes of temporary supervision and care;

6174 (11) Code Section 37-4-22, relating to admission of persons to facilities for dental  
6175 services;

6176 (12) Code Section 37-4-40, relating to filing petition with the court for according of  
6177 program of services to mentally retarded person;

6178 (13) Code Section 37-4-40.1, relating to certification that a person requires temporary  
6179 care;

6180 (14) Code Section 37-4-40.2, relating to admission or discharge of a person in custody  
6181 of a state facility for temporary care;

6182 (15) Code Section 37-4-42, relating to procedure for continuation of court ordered  
6183 habilitation;

6184 (16) Code Section 37-4-62, relating to transfer of clients to custody of federal agencies  
6185 for services;

6186 (17) Code Section 37-4-120, relating to individual dignity of clients to be respected;

- 6187 (18) Code Section 37-4-123, relating to recognition of clients' physical integrity;  
6188 (19) Code Section 37-5-1, relating to the short title;  
6189 (20) Code Section 37-5-2, relating to declaration of policy relative to community  
6190 services for the mentally retarded;  
6191 (21) Code Section 37-5-4, relating to applicability of chapter;  
6192 (22) Code Section 37-5-5, relating to duty of county board of health to provide  
6193 community services;  
6194 (23) Code Section 37-5-6, relating to county or health district plan for community  
6195 services;  
6196 (24) Code Section 37-5-7, relating to duty of department to provide consulting and  
6197 financial assistance to county boards of health;  
6198 (25) Code Section 37-5-10, relating to timetable for implementation of this chapter;  
6199 (26) Code Section 37-6-2, relating to participation by department in financing of  
6200 day-care centers for mentally retarded children;  
6201 (27) Code Section 37-6-3, relating to participation by department in financing of  
6202 day-care centers generally;  
6203 (28) Code Section 37-6-4, relating to grants-in-aid to county board of health for purchase  
6204 of services from private day-care centers;  
6205 (29) Code Section 37-6-6, relating to inspection and approval of day-care centers;  
6206 (30) Code Section 37-6-7, relating to departmental standards for day-care centers;  
6207 (31) Code Section 37-9-6, relating to standards for determination of assessments for less  
6208 than full cost of care;  
6209 (32) Code Section 42-8-63.1, relating to discharges disqualifying individuals from  
6210 employment;  
6211 (33) Code Section 45-9-4.2, relating to liability coverage for nonprofit agencies  
6212 providing services to the mentally retarded;  
6213 (34) Code Section 49-4-51, relating to definitions relative to the "Aid to the Blind Act";  
6214 and  
6215 (35) Code Section 49-4-80, relating to definitions relative to aid to the disabled.

6216 **SECTION 3-6.**

6217 The following Code sections of the Official Code of Georgia Annotated are amended by  
6218 replacing "mental retardation" wherever it occurs with "developmental disability":

- 6219 (1) Code Section 31-12-3.2, relating to meningococcal disease;  
6220 (2) Code Section 31-32-4, relating to the advance directives for health care form;  
6221 (3) Code Section 33-24-28, relating to termination of coverage of dependent child upon  
6222 attainment of specified age;

- 6223 (4) Code Section 37-4-40.4, relating to evaluation of a person in custody of a state  
6224 facility for temporary care;
- 6225 (5) Code Section 37-4-61, relating to transportation of clients generally;
- 6226 (6) Code Section 49-4-31, relating to definitions relative to old-age assistance;
- 6227 (7) Code Section 49-4-51, relating to definitions relative to the "Aid to the Blind Act";  
6228 and
- 6229 (8) Code Section 49-4-80, relating to definitions relative to aid to the disabled.

6230 **SECTION 3-7.**

6231 The following Code sections of the Official Code of Georgia Annotated are amended by  
6232 replacing "mental retardation" wherever it occurs with "a developmental disability":

- 6233 (1) Code Section 31-20-3, relating to sterilization of mentally incompetent persons;
- 6234 (2) Code Section 37-4-80, relating to effect of inability to pay on right to habilitation  
6235 services;
- 6236 (3) Code Section 37-4-100, relating to retention of rights and privileges by clients  
6237 generally; and
- 6238 (4) Code Section 37-4-122, relating to client's care and treatment rights.

6239 **SECTION 3-8.**

6240 Code Section 30-8-1 of the Official Code of Georgia Annotated, relating to the Governor's  
6241 Council on Developmental Disabilities, is amended as follows:

6242 "30-8-1.

6243 (a) There is created the ~~Governor's~~ Georgia Council on Developmental Disabilities. The  
6244 council shall serve as the designated state agency and state planning council for purposes  
6245 of carrying out the provisions of Chapter 75 of Title 42 of the United States Code, as now  
6246 or hereafter amended, relating to programs for persons with developmental disabilities.

6247 (b) The members of the council shall be appointed by the Governor from among the  
6248 residents of the state, and the composition of the council shall comply with the membership  
6249 requirements of Chapter 75 of Title 42 of the United States Code, as now or hereafter  
6250 amended. The Governor shall consider appointing to the council persons representing a  
6251 broad range of individuals with developmental disabilities and individuals interested in  
6252 programs for the developmentally disabled. To the extent feasible, appointments to the  
6253 council shall be made with a view toward equitable geographic, racial, and ethnic  
6254 representation.

6255 (c) Each member shall serve for a term of four years or until a successor is appointed.  
6256 Members shall be eligible to succeed themselves. Vacancies shall be filled in the same  
6257 manner as original appointments. The council shall elect its own chairperson and such

6258 other officers as it deems necessary. The council may adopt rules and procedures and shall  
6259 meet at the call of the chairperson.

6260 (d) The ~~Governor's~~ Georgia Council on Developmental Disabilities shall:

6261 (1) Develop and implement a state plan, which includes the specification of federal and  
6262 state priority areas, to address on a state-wide and comprehensive basis the need for  
6263 services, support, and other assistance for individuals with developmental disabilities and  
6264 their families;

6265 (2) Monitor, review, and evaluate, not less than annually, the implementation and  
6266 effectiveness of the plan;

6267 (3) Submit to the United States secretary of health and human services, through the  
6268 Governor, such plan and periodic reports on the council's activities as the secretary finds  
6269 necessary;

6270 (4) Receive, account for, and disburse funds paid to the state pursuant to the provisions  
6271 of Chapter 75 of Title 42 of the United States Code, as now or hereafter amended, and  
6272 as authorized by the approved state plan;

6273 (5) To the maximum extent feasible, review and comment on all plans in the state which  
6274 relate to programs affecting persons with developmental disabilities;

6275 (6) Serve as an advocate for persons with developmental disabilities;

6276 (7) Advise the Governor, the General Assembly, and all other state agencies in matters  
6277 relating to developmentally disabled persons; and

6278 (8) Fulfill the responsibilities and meet the requirements of a designated state agency and  
6279 of a state planning council as provided by Chapter 75 of Title 42 of the United States  
6280 Code, as now or hereafter amended.

6281 (e) The ~~Governor's~~ Georgia Council on Developmental Disabilities shall be attached to the  
6282 Department of ~~Human Resources~~ Behavioral Health for administrative purposes only as  
6283 provided in Code Section 50-4-3. The council shall recruit and hire staff as provided by  
6284 law and as the council determines necessary to carry out its duties. All costs incurred by  
6285 the council shall be covered by funds paid to the state under Chapter 75 of Title 42 of the  
6286 United States Code, as now or hereafter amended, except that members who are state  
6287 employees shall be reimbursed for their expenses by their agency in the same manner as  
6288 other state employees. Members who are not state employees shall be reimbursed for their  
6289 actual expenses, including travel and any other expenses incurred in performance of their  
6290 council duties, from funds appropriated to the Department of ~~Human Resources~~ Behavioral  
6291 Health."

**SECTION 3-9.**

Code Section 37-3-1 of the Official Code of Georgia Annotated, relating to definitions relative to the examination and treatment for mental illness, is amended by revising paragraph (11) and adding a new paragraph to read as follows:

"(11) 'Mentally ill' means having a mental illness. ~~disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.~~

(11.1) 'Mental illness' means all diagnosable mental disorders, which includes all health conditions that are characterized by alterations in thinking, mood, or behavior, or a combination thereof."

**SECTION 3-10.**

Code Section 37-4-2 of the Official Code of Georgia Annotated, relating to definitions relative to the habilitation of the mentally retarded, is amended as follows:

"37-4-2.

As used in this chapter, the term:

(1) 'Client' means any ~~mentally retarded~~ developmentally disabled person who seeks habilitation under this chapter or any person for whom such habilitation is sought.

(2) 'Clinical record' means a written record pertaining to an individual client and includes habilitation record, progress notes, charts, admission and discharge data, and all other information which is recorded by a facility and which pertains to the client's habilitation. Such other information as may be required by rules and regulations of the board shall also be included.

(3) 'Community services' means all services deemed reasonably necessary by the Department of ~~Human Resources~~ Behavioral Health to provide for the education, training, habilitation, and care of ~~mentally retarded~~ developmentally disabled individuals. Such services shall include, but not be limited to, diagnostic and evaluation services, day-care and training services, work activity services, community residential services such as group family care homes, transportation services, social services, medical services, and specified home services.

(4) 'Comprehensive evaluation team' or 'comprehensive habilitation team' means and shall consist of a group of persons with special training and experience in the assessment of needs and provision of services for ~~mentally retarded~~ developmentally disabled persons, which group shall include, at a minimum, persons qualified to provide social, psychological, medical, and other services. The department shall specify the qualifications of the individuals who ~~compose~~ comprise a comprehensive evaluation team or a comprehensive habilitation team and shall ensure that such teams are located

throughout the state so as to provide diagnostic, evaluation, and habilitation services for all citizens of Georgia.

(5) 'Court' means:

(A) In the case of an individual who is 17 years of age or older, the probate court of the county of residence of the client or the county in which such client is found. Notwithstanding Code Section 15-9-13, in any case in which the judge of said probate court is unable to hear a case brought under this chapter within the time required for such hearing, said judge shall appoint a person to serve and exercise all the jurisdiction of the probate court in such case. Any person so appointed shall be a member of the State Bar of Georgia and shall be otherwise qualified for his or her duties by training and experience. Such appointment may be made on a case-by-case basis or by making a standing appointment of one or more persons. Any person receiving such standing appointment shall serve at the pleasure of the judge making the appointment or ~~his~~ the judge's successor in office to hear such cases if and when necessary. The compensation of a person so appointed shall be as agreed upon by the judge who makes the appointment and the person appointed with the approval of the governing authority of the county for which such person is appointed and shall be paid from the county funds of said county. All fees collected for the services of such appointed person shall be paid into the general funds of the county served; or

(B) In the case of an individual who is under the age of 17 years, the juvenile court of the county of residence of the client or the county in which such client is found.

(6) 'Department' means the Department of Behavioral Health.

(7) 'Developmental disability' means a severe, chronic disability of an individual that:

(A) Is attributable to a mental, cognitive, or physical impairment, or any combination of mental, cognitive, and physical impairments;

(B) Is manifested before the individual attains age 22 except in cases of traumatic brain injury when age is not a variable;

(C) Is likely to continue indefinitely;

(D) Results in substantial functional limitations in three or more of the following areas of major life activities:

(i) Self-care;

(ii) Receptive and expressive language;

(ii) Learning;

(iv) Mobility;

(v) Self-direction;

(vi) Capacity for independent living; and

(vii) Economic self-sufficiency; and

6365 (E) Reflects the person's need for a combination and sequence of special,  
 6366 interdisciplinary, or generic services, individualized supports, or other forms of  
 6367 assistance which are of lifelong or extended duration and are individually planned and  
 6368 coordinated.

6369 When applied to infants and young children, the term means individuals from birth to age  
 6370 nine years, inclusive, who have substantial developmental delay or specific congenital  
 6371 or acquired conditions with a high probability of resulting in developmental disabilities  
 6372 if services or supports are not provided.

6373 (8) 'Developmentally disabled person in need of community services' means a  
 6374 developmentally disabled person who, after comprehensive evaluation and a hearing, is  
 6375 found to be in need of community services as defined in Code Section 37-5-3.

6376 ~~(6)~~(9) 'Facility' means any state owned or state operated institution utilized 24 hours a  
 6377 day for the habilitation and residence of persons who are ~~mentally retarded~~  
 6378 developmentally disabled, any facility operated or utilized for such purpose by the United  
 6379 States Department of Veterans Affairs or any other federal agency, and any other facility  
 6380 within the State of Georgia approved for such purpose by the department.

6381 ~~(7)~~(10) 'Full and fair hearing' or 'hearing' means a proceeding before a hearing examiner,  
 6382 under Code Section 37-4-42, or before a court, as defined in paragraph (5) of this Code  
 6383 section. The hearing may be held in a regular courtroom or in an informal setting, in the  
 6384 discretion of the hearing examiner or the court, but the hearing shall be recorded  
 6385 electronically or by a qualified court reporter. The client shall be provided with effective  
 6386 assistance of counsel. If the client cannot afford counsel, the court shall appoint counsel  
 6387 for him or her or the hearing examiner shall have the court appoint such counsel. The  
 6388 client shall have the right to confront and cross-examine witnesses and to offer evidence.  
 6389 The client shall have the right to subpoena witnesses and to require testimony before the  
 6390 hearing examiner or in court in person or by deposition from any physician upon whose  
 6391 evaluation the decision of the hearing examiner or the court may rest. The client shall  
 6392 have the right to obtain a continuance for any reasonable time for good cause shown. The  
 6393 hearing examiner and the court shall apply the rules of evidence applicable in civil cases.  
 6394 The burden of proof shall be upon the party seeking treatment of the client. The standard  
 6395 of proof shall be by clear and convincing evidence. At the request of the client, the  
 6396 public may be excluded from the hearing; and the client need not be present if the court  
 6397 consents; in either of these events, the record shall reflect the reason for the hearing  
 6398 examiner's or the court's action.

6399 ~~(8)~~(11) 'Habilitation' means the process by which program personnel help clients acquire  
 6400 and maintain those life skills which will enable them to cope more effectively with the

demands of their own persons and of their environment and to raise the level of their physical, mental, social, and vocational abilities.

~~(9)~~(12) 'Individualized program plan' means a proposed habilitation program written in behavioral terms, developed by the comprehensive evaluation team, and specifically tailored to the needs of an individual client. Each plan shall include:

(A) A statement of the nature of the client's specific problems and specific needs;

(B) A description of intermediate and long-range habilitation goals and a projected timetable for their attainment;

(C) A description of the proposed habilitation program and its relation to habilitation goals;

(D) Identification of the facility and types of professional personnel responsible for execution of the client's habilitation program;

(E) A statement of the least restrictive environment necessary to achieve the purposes of habilitation, based upon the needs of the client;

(F) An explanation of criteria for acceptance or rejection of alternative environments for habilitation; and

(G) Proposed criteria for release of the client into less restrictive habilitation environments upon obtaining specified habilitation goals.

~~(10)~~(13) 'Least restrictive alternative,' 'least restrictive environment,' or 'least restrictive appropriate habilitation' means that which is the least restrictive available alternative, environment, or appropriate habilitation, as applicable, within the limits of state funds specifically appropriated therefor.

~~(11)~~ 'Mental retardation' means a state of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and originating in the developmental period.

~~(12)~~ 'Mentally retarded person' means a person having a significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and originating in the developmental period.

~~(13)~~ 'Mentally retarded person in need of community services' means a mentally retarded person who, after comprehensive evaluation and a hearing, is found to be in need of community services as defined in Code Section 37-5-3.

~~(13.1)~~ 'Mentally retarded person requiring temporary and immediate care' means a person who is mentally retarded, and:

(A) Who presents a substantial risk of imminent harm to himself or others;

(B) Who is in need of immediate care, evaluation, stabilization, or treatment for certain developmental, medical, or behavioral needs; and

6437 ~~(C) For whom there currently exists no available, appropriate community residential~~  
 6438 ~~setting for meeting the needs of the person.~~

6439 (14) 'Person in charge of a client's habilitation' means a superintendent or regional state  
 6440 hospital administrator of a facility, a case manager, or any other service provider  
 6441 designated by the department to have overall responsibility for implementation of a  
 6442 client's individualized program plan. The department shall designate such a person for  
 6443 each individual ordered to receive services from the department under this chapter.

6444 ~~(14.1)~~(15) 'Regional state hospital administrator' means the chief administrative officer  
 6445 of a state owned or state operated hospital and the state owned or operated community  
 6446 programs in a region. The regional state hospital administrator, under the supervision of  
 6447 the regional coordinator, has overall management responsibility for the regional state  
 6448 hospital and manages services provided by employees of the regional state hospital and  
 6449 employees of state owned or operated community programs within a mental health,  
 6450 developmental disabilities, and addictive diseases region established in accordance with  
 6451 Code Section 37-2-3.

6452 ~~(15)~~(16) 'Representatives' means the persons appointed as provided in Code Section  
 6453 37-4-107 to receive any notice under this chapter.

6454 ~~(16)~~(17) 'Superintendent' means the chief administrative officer who has overall  
 6455 management responsibility at any facility, other than a regional state hospital or state  
 6456 owned or operated community program, receiving ~~mentally retarded~~ developmentally  
 6457 disabled persons under this chapter or an individual appointed as the designee of such  
 6458 superintendent."

### 6459 SECTION 3-11.

6460 Code Section 37-4-40 of the Official Code of Georgia Annotated, relating to filing petitions  
 6461 with the court for according of program services to a mentally retarded person, is amended  
 6462 by revising subsection (d) as follows:

6463 "(d) If a majority of the evaluation team does not find the allegedly ~~mentally retarded~~  
 6464 developmentally disabled person to be ~~mentally retarded~~ developmentally disabled and in  
 6465 need of being ordered to receive such services from the department or if a majority of the  
 6466 comprehensive evaluation team finds the client to be a ~~mentally retarded~~ developmentally  
 6467 disabled person in need of court ordered services from the department, the court shall set  
 6468 a hearing on the petition and shall serve notice of such hearing on the petitioner, on the  
 6469 prospective client, and on his representatives or guardian as provided in Code Section  
 6470 37-4-107; and such notice shall be served within 72 hours after the filing of the report by  
 6471 the evaluation team. Such notice shall be accompanied by:

6472 (1) A copy of the petition;

6473 (2) A notice that the client has a right to counsel and that the client or his representatives  
 6474 may apply immediately to the court to have counsel appointed if the client cannot afford  
 6475 counsel and that the court will appoint counsel for the client unless the client either  
 6476 indicates in writing that he will have retained counsel by the time set for hearing or  
 6477 waives his right to counsel;

6478 (3) A copy of the individualized program plan developed by the evaluation team under  
 6479 subsection (c) of this Code section; and

6480 (4) A notice that the client has a right to be examined by a comprehensive evaluation  
 6481 team of his own choice at his own expense and to have that team submit a suggested  
 6482 individualized program plan for the client which conforms with the requirements of  
 6483 paragraph ~~(9)~~ (12) of Code Section 37-4-2.

6484 The hearing shall be held no sooner than ten days and no later than 15 days, Saturdays,  
 6485 Sundays, and holidays excepted, after the date the evaluation team report is filed. The court  
 6486 shall grant a continuance upon application by the client or his representatives, if necessary,  
 6487 to permit preparation for the hearing."

#### 6488 **SECTION 3-12.**

6489 Code Section 37-4-109 of the Official Code of Georgia Annotated, relating to establishment  
 6490 of patients and staff complaint procedure, is amended as follows:

6491 "37-4-109.

6492 The department shall establish procedures whereby complaints of the client or complaints  
 6493 of the staff concerning admission, treatment, or habilitation can be speedily heard. Clients  
 6494 shall receive reasonable notice of such procedures. Final decisions shall be made by the  
 6495 superintendent, the regional state hospital administrator, or an advisory committee,  
 6496 whichever is appropriate, with the right of appeal to the ~~director of the Division of Mental~~  
 6497 ~~Health, Developmental Disabilities, and Addictive Diseases~~ commissioner or his or her  
 6498 designee. The board shall establish rules and regulations for the implementation of such  
 6499 procedures. However, the client shall not be required to utilize these procedures in lieu of  
 6500 other available legal remedies."

#### 6501 **SECTION 3-13.**

6502 Code Section 37-5-3 of the Official Code of Georgia Annotated, relating to definitions  
 6503 relative to community services for the mentally retarded, is amended as follows:

6504 "37-5-3.

6505 As used in this chapter, the term:

6506 (1) 'Community services' means all ~~community-based~~ community based services deemed  
 6507 reasonably necessary by the department to provide for education, training, rehabilitation,

and care of ~~mentally retarded~~ individuals with developmental disabilities and shall include but not be limited to: diagnostic and evaluation services; day-care and training services; work-activity services; community residential services such as group family-care homes; transportation services incidental to educational, training, and rehabilitation services; social services; medical services; and specified home services.

~~(2) 'Mentally retarded individual' means a person whose ability to care for himself is substantially impaired by mental retardation or by a neurological dysfunction associated with mental retardation.~~

~~(3)~~(2) 'Mental retardation Developmental disability' means a state of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and originating in the developmental period."

#### SECTION 3-14.

Code Section 37-6-1 of the Official Code of Georgia Annotated, relating to definitions relative to day-care centers for the mentally retarded, is amended as follows:

"37-6-1.

As used in this chapter, the term:

(1) 'Day-care center' means any facility that is operated and maintained for and is qualified to furnish care and training to ~~mentally retarded~~ individuals with developmental disabilities on less than a 24 hour basis.

~~(2) 'Mentally retarded individual' means any individual who is suffering from mental retardation.~~

~~(3) 'Mental retardation' means a state of subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior.~~

(2) 'Developmental disability' means a severe, chronic disability of an individual that:

(A) Is attributable to a mental, cognitive, or physical impairment, or any combination of mental, cognitive, and physical impairments;

(B) Is manifested before the individual attains age 22 except in cases of traumatic brain injury when age is not a variable;

(C) Is likely to continue indefinitely;

(D) Results in substantial functional limitations in three or more of the following areas of major life activities:

(i) Self-care;

(ii) Receptive and expressive language;

(ii) Learning;

(iv) Mobility;

6544 (v) Self-direction;  
 6545 (vi) Capacity for independent living; and  
 6546 (vii) Economic self-sufficiency; and  
 6547 (E) Reflects the person's need for a combination and sequence of special,  
 6548 interdisciplinary, or generic services, individualized supports, or other forms of  
 6549 assistance which are of lifelong or extended duration and are individually planned and  
 6550 coordinated.  
 6551 When applied to infants and young children, the term means individuals from birth to age  
 6552 nine years, inclusive, who have substantial developmental delay or specific congenital  
 6553 or acquired conditions with a high probability of resulting in developmental disabilities  
 6554 if services or supports are not provided."

### 6555 **SECTION 3-15.**

6556 Code Section 37-9-2 of the Official Code of Georgia Annotated, relating to definitions  
 6557 relative to payment of expenses for support, treatment, and care of patients in institutions  
 6558 generally, is amended by revising paragraph (6) as follows:  
 6559 "(6) 'State hospital' means any state hospital which now or hereafter comes under the  
 6560 control of ~~the Division of Mental Health, Developmental Disabilities, and Addictive~~  
 6561 ~~Diseases~~ of the department and any facility operated in conjunction therewith."

### 6562 **SECTION 3-16.**

6563 Code Section 37-10-2 of the Official Code of Georgia Annotated, relating to the Interstate  
 6564 Compact on Mental Health, is amended by revising Article XV as follows:

#### 6565 "ARTICLE XV.

6566 (a) Pursuant to said compact, the Commissioner of ~~Human Resources~~ Behavioral Health,  
 6567 or his delegate, is hereby designated to be the compact administrator. The compact  
 6568 administrator, acting jointly with like officers of other party States, shall have power to  
 6569 promulgate rules and regulations to carry out more effectively the terms of the compact.  
 6570 The compact administrator is hereby authorized, empowered and directed to cooperate with  
 6571 all departments, agencies and officers of and in the government of this State and its  
 6572 subdivisions in facilitating the proper administration of the compact or any supplementary  
 6573 agreement or agreements entered into by this State thereunder.  
 6574 (b) The compact administrator is hereby authorized and empowered to enter into  
 6575 supplementary agreements with appropriate officials of other States pursuant to Articles  
 6576 VII and XI of the compact. In the event that such supplementary agreements shall require

6577 or contemplate the use of any institution or facility of this State or require or contemplate  
6578 the provision of any service of this State, no such agreement shall have force or effect until  
6579 approved by the head of the department or agency under whose jurisdiction said institution  
6580 or facility is operated or whose department or agency will be charged with the rendering  
6581 of such service.

6582 (c) The compact administrator, using funds appropriated to the Department of ~~Human~~  
6583 ~~Resources~~ Behavioral Health and the Department of Health, may make or arrange for any  
6584 payments necessary to discharge any financial obligations imposed upon this State by the  
6585 compact or by any supplementary agreement entered into thereunder.

6586 (d) Duly authenticated copies of this Act shall be transmitted by the Secretary of State of  
6587 the State of Georgia to the Governor of each State, to the Attorney General and the  
6588 Administrator of General Services of the United States, and to the Council of State  
6589 Governments, and to the Veterans' Administration.

6590 (e) The compact administrator is hereby directed to consult with the immediate family of  
6591 any proposed transferee and, in the case of a proposed transfer from an institution in this  
6592 State to an institution in another party State, to take no final action without notice to the  
6593 admitting court or in case of admission other than by a court, then notice to the admitting  
6594 medical facility is required.

6595 (f) In the administration of this compact, the compact administrator shall in no way  
6596 abridge the rights or privileges of any patient to appeal to the courts for a hearing as  
6597 provided under the laws of Georgia."

6598 **SECTION 3-17.**

6599 Code Section 40-16-5 of the Official Code of Georgia Annotated, relating to authority of the  
6600 commissioner of driver services, is amended by revising paragraph (5) of subsection (d) as  
6601 follows:

6602 "(5) All rules and regulations previously adopted which relate to functions transferred  
6603 under this chapter from the Department of Human Resources (now known as the  
6604 Department of Behavioral Health for these purposes) to the Department of Driver  
6605 Services."

6606 **SECTION 3-18.**

6607 Code Section 42-5-52 of the Official Code of Georgia Annotated, relating to classification  
6608 and separation of inmates generally, is amended by revising subsections (d), (e), and (f) as  
6609 follows:

6610 "(d) The department is authorized to transfer a mentally diseased inmate from a state or  
6611 county correctional institution or other facility operating under its authority to a criminal

ward or facility of the Department of ~~Human Resources~~ Behavioral Health. The inmate shall remain in the custody of the Department of ~~Human Resources~~ Behavioral Health until proper officials of the facility at which ~~he~~ the inmate is detained declare that his or her sanity has been restored, at which time the inmate shall be returned to the custody of the department. At any time after completion of his or her sentence, an inmate detained by the Department of ~~Human Resources~~ Behavioral Health on the grounds that he or she is mentally diseased may petition for release in accordance with the procedure provided in Chapter 3 of Title 37. Prior to completion of his or her sentence, this procedure shall not be available to ~~him~~ the inmate.

(e) Upon being presented with a proper certification from the county physician of a county where a person has been sentenced to confinement that the person sentenced is addicted to drugs or alcohol to the extent that ~~his~~ the person's health will be impaired or ~~his~~ life endangered if immediate treatment is not rendered, the department shall transfer the inmate to the custody of the Department of ~~Human Resources~~ Behavioral Health. The inmate shall remain in such custody until officials of the Department of ~~Human Resources~~ Behavioral Health determine ~~he~~ the inmate is able to serve his or her sentence elsewhere.

(f) The department may transfer any inmate afflicted with active tuberculosis from any state or county correctional institution, or any other facility operating under the authority of the department, to a tubercular ward or facility specially provided and maintained for criminals by the department at a tuberculosis facility or facilities operating under the Department of ~~Human Resources~~ Health."

### SECTION 3-19.

Code Section 42-5-52.1 of the Official Code of Georgia Annotated, relating to submission to HIV test of inmates, is amended by revising subsection (c) as follows:

"(c) No later than December 31, 1991, the department shall require to submit to an HIV test each person who has been committed to the custody of the commissioner to serve time in a penal institution of this state and who remains in such custody, or who would be in such custody but for having been transferred to the custody of the Department of Human Resources (now known as the Department of Behavioral Health) under Code Section 42-5-52, if that person has not submitted to an HIV test following that person's most recent commitment to the custody of the commissioner and unless that person is in such custody because of having committed an AIDS transmitting crime and has already submitted to an HIV test pursuant to Code Section 17-10-15."

**SECTION 3-20.**

Code Section 49-5-220 of the Official Code of Georgia Annotated, relating to legislative findings and intent with respect to children and adolescents with severe emotional problems, is amended as follows:

"49-5-220.

(a) The General Assembly declares its intention and desire to:

(1) Ensure a comprehensive mental health program consisting of early identification, prevention, and early intervention for every child in Georgia;

(2) Preserve the sanctity of the family unit;

(3) Prevent the unnecessary removal of children and adolescents with a severe emotional disturbance from their homes;

(4) Prevent the unnecessary placement of these children out of state;

(5) Bring those children home who through use of public funds are inappropriately placed out of state; and

(6) Develop a coordinated system of care so that children and adolescents with a severe emotional disturbance and their families will receive appropriate educational, nonresidential and residential mental health services, and support services, as prescribed in an individualized plan.

(b) In recognition of the fact that services to these children are provided by several different agencies, each having a different philosophy, a different mandate, and a different source of funding, the General Assembly intends that the ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the Department of Human Resources~~ Department of Behavioral Health shall have the primary responsibility for planning, developing, and implementing the coordinated system of care for severely emotionally disturbed children. Further, it recognizes that to enable severely emotionally disturbed children to develop appropriate behaviors and demonstrate academic and vocational skills, it is necessary that the Department of Education provide appropriate education in accordance with P.L. 94-142 and that the ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the Department of Human Resources~~ Department of Behavioral Health provide mental health treatment.

(c) Further, in recognition that only a portion of the children needing services are receiving them and in recognition that not all the services that comprise a coordinated system of care are currently in existence or do not exist in adequate numbers, the General Assembly intends that the ~~Department of Human Resources~~ Department of Behavioral Health and the Department of Education jointly develop and implement a State Plan for the Coordinated System of Care for severely or emotionally disturbed children or adolescents as defined in paragraph (10) of Code Section 49-5-221.

6682 (d) The commissioner of ~~the Department of Human Resources~~ behavioral health and the  
6683 State School Superintendent shall be responsible for the development and implementation  
6684 of the state plan.

6685 (e) The commissioner of ~~the Department of Human Resources~~ behavioral health shall be  
6686 responsible for preparing this jointly developed state plan for publication and  
6687 dissemination. The commissioner of ~~the Department of Human Resources~~ behavioral  
6688 health shall also be responsible for preparing for publication and dissemination the annual  
6689 report.

6690 (f) The receipt of services under this article is not intended to be conditioned upon  
6691 placement of a child in the legal custody, protective supervision, or protection of the  
6692 ~~Department of Human Resources~~ Department of Human Services."

### 6693 SECTION 3-21.

6694 Code Section 49-5-225 of the Official Code of Georgia Annotated, relating to local  
6695 interagency committees with respect to children and adolescents with severe emotional  
6696 problems, is amended by revising subsection (a) as follows:

6697 "(a) At least one local interagency committee shall be established for each region of the  
6698 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~  
6699 ~~Department of Human Resources~~ Department of Behavioral Health whose permanent  
6700 membership shall include a local representative from each of the following:

- 6701 (1) The community mental health agency responsible for coordinating children's  
6702 services;
- 6703 (2) The Division of Family and Children Services of the Department of Human  
6704 ~~Resources~~ Services;
- 6705 (3) The Department of Juvenile Justice;
- 6706 (4) The Division of Public Health of the Department of ~~Human Resources~~ Health;
- 6707 (5) A member of the special education staff of the local education agency;
- 6708 (6) The Division of Rehabilitation Services of the Department of Labor."

### 6709 PART IV

#### 6710 Effective Date and Repealer.

### 6711 SECTION 4-1.

6712 This Act shall be effective on July 1, 2009.

### 6713 SECTION 4-2.

6714 All laws and parts of laws in conflict with this Act are repealed.